[Constitution]

ARTICLE 26

The state takes care of the physical education of the people, especially that of the youth, with a view to improving health and increasing the capacity of the people for work and the defense of the state. 657

ARTICLE 27

Freedom of scientific and artistic work is guaranteed. 517
The state promotes science and the arts in such a way as to further the culture and welfare of the public.

The rights of authors are protected by law.

ARTICLE 28

In order to raise the cultural level, the state gives to all 871
classes of people every chance to attend schools and other cultural institutions.

The state is particularly interested in the education of youth.

Minors are protected by law. [858]

The schools belong to the state. Private schools can be opened only by special permission. All their activities are supervised by the state. Elementary education is free and obligatory.

Schools are separated from the church.

ARTICLE 29

Citizens have the right to petition state organs for 641
redress of wrongs.

Citizens have the right to complain against any illegal or irregular decision of an administrative organ of the state.

ARTICLE 30

Every citizen can complain in competent courts against officials who have acted unjustly in the discharge of their duty.

ARTICLE 31

Citizens are entitled to seek from the state or from an 695
official compensation for damages incurred as a result of illegal or irregular punishment.

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[Constitution]

TITLE IV

Courts and Department of the Attorney General

(a) *Courts* 692

ARTICLE 75

The judicial organs of the People's Republic of Albania are: The Supreme Court, the People's Courts of the prefectures and subprefectures, and the Military Courts.

Special Courts may be created by law for specific questions. [698]

ARTICLE 76

The courts give their decisions in the name of the people.

The courts are independent in the exercise of their own functions. They are separated from all the administrative branches of government. Their decisions cannot be altered except by higher courts.

The higher courts are empowered within the law to control lower courts.

The Ministry of Justice directs and controls all matters of judicial administration and organization. [645]

ARTICLE 77

The courts try cases according to law. 695

ARTICLE 78

In principle, court sessions are open to the public.

ARTICLE 79

In principle, the decisions of the courts are given for the entire bench. The judicial personnel of the subprefectures and prefectures sitting as a court of original jurisdiction is composed of permanent judges and juries, both of whom have equal rights.

Penal verdicts of more than ten years cannot be given by a court of original jurisdiction but only by a court of the prefecture or by a higher court.

ARTICLE 80

The official language in all courts is Albanian. 191 695

[Constitution]

191 Any citizen who does not know Albanian may use his own
695 language through an interpreter.

ARTICLE 81

692 The Supreme Court is elected for four years by the People's Convention of the Republic and by secret ballot.

The courts of the prefectures are elected for three years by the people's councils of the prefecture and by secret ballot.

[666] The judges of the subprefectures are also elected for three years by the people's councils of the subprefecture and by secret ballot.

A person may be elected judge many times.

The manner of election to all courts will be defined by law.

ARTICLE 82

The Supreme Court is the highest judicial body of the People's Republic of Albania.

[698] The Supreme Court can arbitrate any conflict of jurisdiction between the civil and military courts as well as between courts and any other bodies.

Cases in which the Supreme Court acts as a court of original or secondary jurisdiction will be defined by law.

ARTICLE 83

The Supreme Court passes on the legality of all court decisions of the Republic.

693 Only the District Attorney may exercise an appeal
[692] against a summary decision of the courts. The decision given on such an appeal has no effect on the cause tried except when the law provides otherwise.

(b) *Department of the Attorney General*

ARTICLE 84

693 The Department of the Attorney General is the organ of
646 the People's Convention which supervises the execution of the law by the ministries and other administrative bodies as well as by all public officials and citizens.

ARTICLE 85

The Attorney General of the People's Republic of Albania

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a first-born may be inefficient, the mantle of a dead or dying head falls on the son who in the opinion of all the adult males in the household is the best fitted to keep it together, irrespective of whether he is the eldest or not.[1] This combination of birth and unanimity of choice gives these heads the strength of inevitability, so that they can be neither envied nor rebelled and intrigued against, but must be recognized and implicitly obeyed by their subordinates—a most important factor in keeping the peace.

Before the Turks left in 1912, the headship of a northern village or tribe descended in the same family, always to the head it had chosen for itself. Since 1912 successive Albanian governments have slightly modified this system. In non-tribal areas like Mat, Martanesh and Shpat there has been less need for a change; as far back as we can go, the head of the average village or group of villages has been elected by the community for his personal qualities in the same way as the head of a house. A few villages of Mat, however, had long been ruled by the landlords (*begs* or *beys*) who owned them; after 1912 the power of these landlords, the Zogu family excepted, was curtailed by the central government like that of the bajraktars of the north.

In the old days the laws were administered as well as enacted or revised by the ruling rank, who were collectively known as elders. The system was elaborate, with public trials over which elders presided, and at which evidence was taken from witnesses on oath as well as from the plaintiff and the accused, and a jury might be asked to render a verdict. Fines were the usual penalty for petty misdemeanours, and temporary banishment, permanent expulsion or death for serious offences; a modified form of imprisonment also existed. Offences against the cohesion of the social fabric, as understood by the mountaineers, were reckoned more serious than crimes against an individual. Thus parricide was graver than fratricide; the first struck a blow at parental authority, an essential part of the social structure, but since one brother had no right to rule another except in special cases, fratricide was little worse than an ordinary murder and hardly a public concern.[2] The murder of a neighbour or the theft of his property seldom entered the serious category until the criminal became an habitual offender. Then the community, regarding the man as a social menace from whom none of its members was safe, took whatever action the law laid down for

[1] See Chapter V.

[2] See Chapter V, p. 38.

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695 With a few exceptions, the greatest precautions were taken to conceal the witness's identity, as the criminal would have killed him if he had discovered who he was. In Mirditë he was allowed to object to the nomination of men whom he thought too indiscreet to preserve his incognito, and those eventually selected had to take an oath that so long as they lived they would not without his permission divulge his identity. He was always interviewed in all secrecy; often the accuser alone knew who he was. He might be taken to an empty house where the elders awaited him, or led at night to the house of an elder who questioned him from a balcony while he stood unseen by all the inmates, the elder included, in the dark farmyard. In the Malësi e Madhe he was often given a rendezvous by night in another village altogether. In Zerqan he usually met the committee in some lonely spot at sunset, with them on one side of a thick hedge and him on the other so that they could not see him. However often he was interviewed, it was always in the same secrecy.

No doubt owing to the danger involved in trying to bring a criminal to justice, a witness was always given a fee. With the delicacy characteristic of Albanians the fee was cloaked under the name of *këpucë* (lit. 'shoe'), presumably in allusion to the shoe-leather which he wore out in finding or conveying his information. Consequently, *këpucar* means literally the 'man who gets shoe-money'.

In the case of theft the witness's fee was not allowed to exceed the value of the stolen property. It was generally determined by agreement between witness and accuser at their first meeting, often after lively bargaining, particularly if the witness was greedy enough to ask more than he should. When the accuser let it be known that he was looking for a witness, he often specified the fee he was willing to pay. When the theft took place in a house, the fee
[577] was doubled, because human life had been endangered and the house's honour tarnished; house-breaking always implied that the men in it were weak or the womenfolk light. In Kurbin and Lumë, for example, four napoleons were paid to an informant who found an ox that had been stolen from the farmyard or stable under the house, but only its value, which was always less than four napoleons, in those districts when it had been stolen while grazing outside.

684, 695 A man who disclosed a woman's adultery to her husband received no fee; and a friend was not allowed to take money for

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dismissed with only the wages due until then. Since it was in a sense his own house and his own father that he had robbed, he could not be given a second chance; he was too obviously devoid of ordinary decency to be trusted again. And since the law forbade his master to strike him, he could not be beaten, as a thievish woman might be, till he reformed.

Dismissal did not end his story. He had to pay the statutory fine for housebreaking and to bring his late master two of everything he had stolen. If he had no money for the fine, he had to find a surety for the amount and then go and earn it elsewhere. After European legal codes were introduced at the end of the 1920's, these unwritten laws lost much of their force, and it was rather by threatening to get the thief sent to prison that an injured master obtained restitution.

In less sophisticated days a servant who was only suspected of robbing his master could be tried by the ordeal of the oath. If this proved him innocent, his master had to pay him six *qese* ("purses" for unjustly accusing him, besides a full year's wages and clothes If it was later found that he had perjured himself, the elders fined him twenty-four *qese*, of which half went to the church (or mosque) and half to the tribe; he had also to return to his master the six *qese* and the unearned wages and clothes which he had won from him by perjury. It sometimes transpired, however, that the informant who had disclosed his perjury had lied himself. Then the elders once more declared the servant innocent, ordered the church and tribe to return his twenty-four *qese*, and the informant to pay him a year's wages and clothes besides six *qese* for the false accusation.

If a servant stole in his master's village or another community, punishment depended on who had instigated the crime. If his master had done so, he and not the servant was in fault, and it was for him to make reparation to the victim. He must also dismiss the servant forthwith as a public nuisance; but since the man was only his tool, he must pay him a full year's wages. If, on the other hand, a servant stole on his own initiative, the fault was his and it was for him alone to make restitution. In addition, he might be legally dismissed with no more than the wages he had earned.

Much the same laws applied when a servant committed a murder. If he did so at his master's instigation, both were punished. He must be dismissed, but his master must pay him a full year's wages. The resultant blood feud was primarily his concern, but if he

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231 685 628 case of murdered man and murdered woman. In some areas, such as Kurbin, the blood money for a house dog was assessed by the elders or government authorities.

A stranger who agreed in his simplicity to pay the owner what he demanded for his dead dog might find himself presented with a fine bill. The owner would say that the dog had saved his life on several occasions and was consequently worth six, ten or even twenty napoleons. Sometimes the owner asked the stranger, not for blood money, but for another dog of the same quality as the dead animal. The cost might exceed the conventional amount of blood money.

In the above cases a house dog had been killed in self-defence. When it was killed out of spite matters were much more serious. 'He who kills a house dog will steal your wife', says the Kanùn. Such killings usually took place at night because the aggressor would find it dangerous to approach the house in daylight. This aggravated the crime since the night was the dog's own time.

In Mirditë, Kurbin and Martanesh a man who killed a dog 'in its kennel', i.e. on its own ground and therefore spitefully, must pay its master 500 grosh, almost a fortune in these poverty-stricken areas. In north Albania his life was forfeit. When he had been killed by the dog's master, his relatives killed one of the latter's family, arguing that they could not permit their relative to be equated to a dog. In most cases the two parties being 'one for one' the dog's master then consented to make peace on condition of receiving blood money for the dead animal. He might stipulate, if he wished, that this should take the form of an ox or a horse and so cost more than the conventional blood money. Occasionally the feud was continued—it is on record that twelve men in the north once died for the sake of one dog. In any region a man who immediately pardoned the killer of his dog would be taunted as [693] a weakling. In Lumë the man who was suspected of having killed a house dog found dead, a crime as costly as killing a man, could not clear himself unless he persuaded twenty-four elders to take oath with him.

231 685 672 The legal discrimination between defensive and spiteful killing made it important for a man who killed a dog during the daytime to establish his motive. He could do so simply and surely. If his bullet had struck the dog in the forehead or chest it was evident that the animal was charging him and he had fired in fear. If, on the

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the quickest, the second tried when the first failed, and the third when the second failed. In practice recourse to the authorities was rare and seldom as effective as action by elders.

When settlement was made by the parties themselves, one of the two men quarrelling might exclaim, 'Well, take it on your shoulders' —there was no need to specify what—'and set up the stones'. 'All right', replied the other as he bent to pick up a stone or a clod of earth or both to put on his shoulders. 'May I carry it on my shoulder in this world and in that if this ground isn't mine', or 'May I carry this stone and this earth and the whole wide world', he proclaimed as he swaggered off along what he said was the boundary line. Provided four or five witnesses were present this ended the dispute. Either oath was too solemn to be gainsaid. The second in particular was convincing: who would do anything as grave as to take the world on his shoulder for the sake of an erring rope in a measurer's hand? Four or five friends of both parties attended as witnesses. Fear of being asked to take this solemn oath was a considerable deterrent against disturbing the stones. Sometimes the older disputant took an oath, with or without earth or stone, that the disputed land was his, and so proved his title to it.

When the boundary had been recently delimited the disputants might consult their other neighbours, especially if these were older than they were themselves. Or they might ask the opinion of one, two or three very old men from another village as likely to be impartial. If they consulted only one, they had both to consent formally to employing him. Sometimes, when a dispute was dragging on interminably, an old man cut in with an offer to show them where the boundary was, with earth and a stone on his shoulder.

When friends or neighbours were called in they might settle the dispute by arguing. When old men were asked, they had to point out the boundary afresh but not till after they had taken earth and a stone on their shoulders and made a solemn oath to carry these through all eternity if they delimited falsely. When the old men were from the same villages as the disputants, they were unpaid; when from another village they were each given a Turkish pound.

By the second method of settlement the elders in Munë took two or three napoleons from each disputant as a pledge of his future behaviour, and arranged for five or six elders as well as some

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ordinary householders to meet at an early date at the boundary. In presence of the assembled company the claimant swore with earth and a stone on his shoulders that the boundary was where he said. The elders then dug to see if they could find the stones. If they did they gave judgement in the claimant's favour and vice versa. If the losing disputant did not accept their ruling they kept his pledge. In Martanesh, according to Mr Lef Nosi, the case was entrusted to a single elder. First he tried to decide it by questioning the neighbours of the disputants. If he doubted what they said he put them to the ordeal of an oath on bread and the Koran. If he still thought one or more of them was lying he bade them set up the boundary stones where they wished. If they dared to do so he could say no more, but sometimes they jibbed at this final perjury and then his judgement prevailed. If the loser objected to his allowing the neighbours to mark the boundary, he hushed him by bidding him let them perjure themselves and then offering to indemnify him out of his own pocket for his loss, but here the elder was on safe ground. Shame prevented the loser from accepting this offer.

When the elders failed to effect a settlement the injured party in Shijan complained to the government—not always unsuccessfully. Shijan was so near Elbasan that the government's writ ran there even in Turkish times. In many other places, in modern as in Turkish times, it was thought that if elders had failed it was useless to apply to the government, and a shooting match began. In Lumë the man who had taken the oath with earth and a stone took the initiative. In a fury at finding he had risked his soul with an oath for nothing he apostrophized his absent enemy, 'I put the stone on my shoulder. You could have done it, but you wouldn't. Now I'll kill you.' When he succeeded the bitterest of feuds started. Sometimes for greater ignominy they beat each other with sticks. This too started a bitter feud.

When bigger units disputed a boundary each party generally engaged an elder, paying him a fee of 250–500 grosh in Martanesh in Mr Lef Nosi's time, against 50 for a quarrel between individuals. Elders, disputants and witnesses crowded to the boundary, where the elders questioned and argued interminably. If they failed to come to an agreement, murder soon followed. When both sides were sickened by the shuttlecock of the feud they called in famous elders from another unit who could not possibly have an interest in

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In certain cases the bajraktar and the local headman could act alone. For example, in case of sacrilege against the church they had power to pronounce even a death sentence. In practice, however, they preferred to consult the tribe and the ecclesiastical authorities. After the Young Turks introduced their constitution in 1908 they tried to make everything in Albania very legal and proper. If land was bought, for example, they required a deed of conveyance where the word of witnesses had formerly sufficed. The best lawyer in the land might write out the document and great men witness it, but it had no legal validity until the bajraktar and local headmen had affixed their seals.

As a legal figure the bajraktar had special weight. If called to serve on a jury of twenty-four men, his single person was counted equal to the twelve jurors left unnamed by the elders. A peace made in his presence was particularly binding. If at all distinguished he was often called in by another tribe to settle a dispute that had baffled its own elders. In his own tribe, besides acting as judge in many ordinary cases, he was ultimate referee in all difficult cases. Boundary disputes, the most fertile source of trouble among these land-starved tribes, were often referred straight to him for settlement. Disobedience to his ruling might entail the worst penalties. Particularly in the Malësi e Madhe, he and the local headman had power to appoint elders to settle a quarrel. If these failed to do so, or were found to have based their decision on a false oath by one of the litigants, it fell to the bajraktar and the local headman to reopen the case and to pronounce a final judgement. If a headman judged a case and gave a verdict the bajraktar disliked, he could upset this verdict and substitute one of his own. But neither headman nor elders could upset his judgements; these were always final and unalterable.

All the above applies to the non-tribal areas of central Albania as much as to the northern tribes. Mus Ballgjini of Çermenikë, for instance, was almost more famous as a law-giver than as a military leader. By a seeming exception the bajraktar of the Perlat tribe of Kthellë did not judge but left such matters to the elders. The explanation of the anomaly probably lies in his notorious incompetence. It was every bajraktar's province to judge in peace as well as to lead in war.

In all areas the jurisdiction of the bajraktar was subject to certain limitations. If the commoners did not like one of his decisions,

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compulsory. Any who failed to attend and could not justify their absence were fined. Together with the general public, they had to investigate complaints against a senior elder or a bajraktar, and if they found him guilty, they had to fine or ostracize him. In their attempts to prevent breaches of the peace they were entitled to try any method from peaceful persuasion to forcible restraint by the whole village. When, for instance, a tribesman refused to accept a judgement that was demonstrably lawful and unbiased, they could call a General Assembly to discuss the case. A public fine generally ended the man's obduracy. If not, the village elders could ask all the headmen and 'soldiers' of the tribe to come and bring him to his senses by threatening to destroy his house and property. They continued to apply the old law, the public preferring these methods to those of modern officials.

Canon elders were subordinate to the bajraktar and the voivodes of their tribe, acting as their assistants at General Assemblies.

In non-tribal districts like Shpat and Martanesh the canon elders of Mirditë were represented by a body of men called 'local elders'. These were hereditary, found in every village and restricted in their law-giving to their own village.

Another type were called 'specialist elders' in the southern tribal areas, 'regional elders' or 'mountain elders' in Martanesh, and plain 'elders' in Theth. The great majority owed nothing to heredity and everything to themselves, being ordinary men who had gradually built up a reputation for good sense, conciliatory temper and especially knowledge of the mountain law. A few were hereditary elders who had displayed the same qualities. Except in a few unusual cases they did not hand on their gifts or their position. As it required time to build up their reputation, the generality were older than herditary elders when they attained this position. They began by settling petty troubles within their brotherhood and gradually as their reputation grew, they extended their sphere of action to their kin, village and district in succession. A brotherhood elder must not interfere in another brotherhood, a kin elder in another kin or a 'local elder' of Martanesh in another village. But the specialists might travel far and wide outside their own social unit judging and arbitrating wherever required. Provided that they judged according to the law, their judgements were binding and overrode any delivered previously by a local man. As gifted men do not arise at will, they were never common but were found only

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here and there. After the introduction of modern codes of justice they had little chance to emerge.

Above all elders, in both Mirditë and the adjacent tribes, came the Gjomarkaj family. This family was regarded as the source of all knowledge of the mountain law and represented the final court of appeal. The villagers of Martanesh carried many of their graver troubles to its head, but at the same time had often a 'special elder' whom they consulted in such cases. Selim Peshku, who died about 1910, was the latest example. The tree under which he sat dispensing justice in Martanesh is still shown. In the north the bishop or a specially gifted priest was the ultimate referee. They were consulted not so much for their knowledge of the law but because of their reputation for probity.

Functionally the brotherhood elders of Mirditë were represented in the Malësi e Madhe by the 'ward elders', who ruled and judged in their own small community, the village ward in which they lived. They were more commonly called *gjobtarë* ('fine-collectors') from their primary function of collecting fines. As legal functionaries they resembled specialist elders rather than brotherhood elders because they were ordinary tribesmen and owed their position as elders, not to hereditary right, but to special appointment. They were selected, however, not by the public like the specialists, but by the local bajraktar or voivode. On taking up an appointment to judge or arbitrate they were known as 'soul elders', on account of the solemn phrases with which they were commissioned. The commissioning bajraktar or voivode first asked, 'Do you pledge your souls, elders, that it was so?' On receiving their assent he laid a stone on the ground before them, saying, 'With body and soul, with a stone in front of you and with God's justice set these two people straight in any way that you can see'. It goes without saying that only upright men were willing or were asked to accept a charge laden with such danger to their soul after death. These northern ward elders had no connexion with the ward elders of Godolesh near Elbasan, who were seven in number for the six wards (mëhallë), all subordinate to the paid non-hereditary headman and his two assistants.

Another functional type, which was most important for the repression of crime and was found everywhere, was constituted by 'juror elders'. When trying a case, the judging elders might decide to make one of the disputants take an oath that he was not guilty.

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Then, to guard against the man's forswearing himself they stipulated that a certain number of men must swear at the same time to his innocence. These might or might not be more than men of standing and reputed probity. Whether or not, they were called 'juror elders' for the period covered by the oath.

A subsection of juror elders was known as 'murder elders'. Men of unusually high repute who never shot without cause or stole or burned a neighbour's property, but not necessarily drawn from the ranks of canon elders, these were qualified by their character for swearing to the innocence of a man accused of murder. This crime being the most serious of all, twenty-four of them had to be found on each occasion. As usual, half were nominated by the judging elders and half found by the accused. When the first half had given their oath the accused was virtually cleared and the oath he then gave was only a formality. In Lumë the more important 'murder elders' refused to waste time on giving their oath in cases of petty crime but always came forward in murder cases if they thought the accused innocent. The mere fact of their coming forward in a case sometimes ended it, the rest of the proceedings seeming farcical by comparison.

In the more organized north there were, besides the Gjomarkaj family, recognized substitutes for elders. The Hereditary Captain of Mirditë represented the family which had ruled over the Alpine region of Orosh and its kindred of Dibër, Fan, Kushnen and Spaç for several hundred years and was said by some to be descended from the Albanian national hero, Skanderbeg. It had remained Catholic, and its long pedigree may be found in the church registers of Orosh. This family was the 'foundation of law'. Specially difficult cases in Mirditë were referred straight to its head for solution. Any case which three pairs of elders had failed to settle was taken to the chieftains of the subtribes and finally to the head of the Gjomarkaj family. Beyond this there was no appeal. Outsiders, even Mohammedan outsiders, were often glad to refer knotty problems to the family. In view of his exalted position the head had many legal rights. He took precedence in every assembly wherever and whenever met. He had the right to summon chieftains and populace to a General Assembly. Whenever necessary he could summon one man per family to a General Assembly in Shën Pal. At every trial or arbitration he could intervene. He had the right to uproot a family and expel it from Mirditë. He could

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pledge was valueless; something concrete and tangible must be given. 696 626

The pledges deposited, the elder set to work on the case in earnest, questioning any villager who had information, visiting the scene of trouble, interviewing any private informant who volunteered to give evidence, and so arriving at the rights and wrongs of the simpler cases. In more difficult cases he put one of the litigants to the oath, dictating his terms and stipulating the number of 'good men and true' who were to be persuaded by the litigant to take it with him. This rarely failed to show which litigant was in the wrong, and the elder came forthwith to his decision with confidence. 695

When the litigants were friendly, they might agree to engage two elders. In that case they selected them one after the other by the same method of mutual consent as they would have selected one. They also agreed to divide the cost in elders' fees and meals. That done, they laid the case before the elders, one after the other, and bargained with each about his fee and the number of meals he was to be given. These rewards were not necessarily the same for both elders. Sometimes they visited the elders together; more often each visited one only. In the usual way each was required to deposit a pledge with the elders. 694

When the litigants were not friendly, and this was the most common contingency, each found an elder for himself, without consulting the other or considering his views on the man. Each brought his own elder whatever pledge he desired; this meant that one litigant might have to deposit a gun and the other a tobacco-box. Each also bore the sole responsibility for his elder's fee and meals and made for himself the best bargain about them that he could.

A pair of elders worked on these same lines; singly perhaps during the period of investigation, certainly meeting at its conclusion to argue out the pros and cons of the case. If each represented a separate litigant, each tended to favour his own client, so introducing a new principle. The elder was no longer only a judge as he was when he was engaged by the two litigants; he was also the advocate of his own litigant, trying to do the best for him by arguing against the advocate of the other litigant. The loser was more likely to contest the decision under such circumstances. 695

When the two elders had hammered out an agreement they sent for the two disputants, said they had come to an agreement, and

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695 asked if they were willing to accept this. In the most fortunate event the disputants consented and the elders communicated their decision. Each then said to his own man, 'Now bring me my dues and I'll return your pledge'. As soon as his fee was paid he gave back his pledge to his client. If the disputant had no ready money for the fee, a common enough occurrence, he said he would wait a month or two, provided that the disputant could find someone to go bail for him. When the term he had fixed was up without bringing payment of his fee, he sold the pledge and so recouped himself. If he got rather more for the pledge than the amount of his fee the disputant had no right to claim the extra money. The elder never sold the pledge before the date he had fixed. If within the term he fixed the disputant found enough money for his fee, he was no longer allowed to pay it directly but had to transmit it through his guarantor, who in return brought back his pledge from the elder. Sometimes the guarantor saw that the disputant would never be able to redeem his pledge and paid the elder's fee for him. Unfortunately, elders had no power behind them with which to enforce their judgement. Their work was in fact arbitration rather than judging in the English sense. It was, therefore, common for elders in central Albania to communicate their findings to the disputants and then to add, 'Now settle the matter as you like. We have decided that this one of you is in the right.' Too often the 628 loser shot his successful rival, so starting a bad blood feud. Pjetër Gjoni of Theth had his house burgled, and the thief bribed the elders into putting too low a value on the stolen property, assessing it at two napoleons. Pjetër, who had already spent one napoleon on finding out who had been the thief, declared immediately that he would not abide by this judgement and killed the thief. In revenge the thief's family burned down Pjetër's house and carried off all his cattle.

696 Naturally many attempts were made to prevent such sequels to judgements. In Martanesh, Selim Peshku kept the pledges of both disputants for a time. This was against the rules, but Peshku had the peace of the community at heart and made 'anything for peace' his motto. In Zerqan all the elders in the village would meet and would fine a recusant before he could shoot the successful litigant. Sometimes in the same village the two elders refused to deliver judgement until the disputants had promised to abide by it and had each found a guarantor who undertook to see that they kept their

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promise—if they did, there would be no shooting. Each had to give this guarantor a pledge of the usual type—rifle, revolver, watch—which was laid before the elders. The elders then delivered their judgement, the two disputants accepted it and had their pledges returned. If a disputant broke his promise and shot his rival, the village Council of Elders would fine the guarantor, asking him why he had let the man break his word. In this way, through the medium of the guarantor a good deal of pressure was brought to bear on the loser to make him keep the peace. In the Elbasan area it was agreed that a disputant who gave a meal to the elders thereby accepted their judgement, so that the strong instincts of hospitality came into play. In Mirditë the elders whose decision was flouted bade the disputants 'go to Shupal (St Paul's Church) or the Grykë e Oroshit (Defile of Orosh)', i.e. bring the matter up before the next General Assembly for the tribe at one or other of these famous meeting-places. If the loser would not abide by the decision of the General Assembly he could be fined by the tribe, ostracized or even banished for a period. Occasionally a strong man subjected to such sanctions killed the offending elder; by so doing he involved himself in yet another blood feud. In Mirditë and adjacent areas emphasis was laid on the fact that the recusant loser had himself chosen and approved the offending elder, and had signified the same by giving him a pledge. By these acts he had stripped himself of the right to take back the pledge or to express active disapproval of the judgement given. Only in the event of the judgement's being demonstrably biased or unfair were the disputants allowed to challenge it. 'A crooked judgement can be annulled', the law stated. Often the crookedness was established by the loser going secretly to ask another elder for his opinion. In that event the disputant had everywhere the right to appeal against the judgement and to call for a new examination of the case by another elder or pair of elders. In some parts, the law ruled that 'the law does not admit of elder on elder, and trial on trial', and that a man who had 'chosen and approved' elders had no right to call in others.

Frivolous changing of elders was restrained by the extra expense this entailed. In Lumë, for instance, if two brothers were displeased by the manner in which their chosen elders were dividing their property, they could call in one more elder, a *staraplak* (ancient), whose decision was final. But his regulation fee was five

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623 In Lower Martanesh Selim Lashku dispensed justice to the village of Martanesh under a branching tree by the *Gur i Kuvendit* (Stone of Assembly). At the spring called Gurrë Gega, which is at the confluence of the Shëmil and Gurakuq torrents in Çermenikë, he used to meet his famous contemporary of Gurakuq village, Mus Ballgjini, at plenary meetings of the twelve villages of Çermenikë. A list of the usual meeting-places of his day is to be found in Father Gjeçov's book.

The convener fixed the time and place of meeting. The favourite time was the early morning, as this left the whole day free for arguing.

634 619 The bajraktar presided over the General Assembly and sat cross-legged on the ground in the most honourable place. Near him sat other dignitaries—voivodes, village elders, clan elders, village ancients and clan ancients in due order of social precedence. Facing them and well apart sat the rest of the tribe, the youth, the commoners, the public messengers and the fine-collectors (*gjobtarë*), in a half-circle in Mirditë, and elsewhere in a roughly shaped rectangle or circle. The essential thing was that each man present should see and be seen by everybody else, and should have room to advance, if required, to the dignitaries. Since neither youth nor voivodes and fine-collectors existed in southerly districts like Martanesh, General Assemblies there consisted only of the bajraktar, elders, commoners, and public messengers.

[695] Every effort was made to keep a meeting orderly. When a presiding dignitary, a judging elder or a witness was speaking no interruption was allowed. Insulting remarks and abuse were prohibited under pain of a fine that might amount to as many as five rams. Calling another a liar meant a fine of 500 piastres. For the better observance of these rules when a case was being tried, the disputants were not allowed to address the court. Each had to go some distance away with his elder in order to tell him his story quietly, and had to return to his place at the meeting to await judgement in silence. The elders drew apart from the meeting after their briefing, argued the case out with each other, and returned to the meeting to announce their decision in the hearing of all present. In this way only two or three men talked, the rest sat quiet and listened. In Mirditë a stranger might not take part in a general meeting, but in Lumë and Çermenikë, in the belief that a stranger could have 'nothing in his bosom or his pocket', that

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CHAPTER XVI

THE OATH

I. OATH-TAKER AND COMPURGATORS

695 Elders faced with a knotty case concerning property might put one of the disputants to the oath. The victim of the crime, suspecting who had committed it, might test his suspicions by asking that the man should make oath in public that he was innocent. It was only by oath too that a suspect could clear himself; mere protestations of innocence were not enough. 'Denial means an oath', said the law. The oath (*be*, oath; *beja*, the oath) was in fact a most efficient instrument of tribal justice, cutting gordian knots for elders, settling the ownership of property, clearing the innocent and convicting the guilty. It was equally efficient as an instrument of social cohesion, binding the tribe when occasion arose to concerted action against crime within and danger without.

The subject is difficult to understand, because of its remoteness from English practice. The following example from life gives the general scheme of the ordeal, for such it was. The story comes from Labinot, a village well south of the tribal area; but with one or two small exceptions each item might have come from anywhere in the tribal north. It is a criminal case, but if the words 'claimant' and 'oath-taker' be substituted for 'accuser' and 'suspect' it can be read as a property dispute. The general procedure was the same in both cases.

A Moslem of Labinot called Qazim who had lost a plough-ox suspected Asllan, a fellow-villager, of having stolen it, and through the headman demanded an oath from the suspect. The latter, though [693] protesting his innocence, agreed. A few days later when the accusation was formally laid at the Village Assembly, Qazim, as was his right, immediately began to name half the number of twelve compurgators insisted on by the headman. These were chosen on account of their connexion with the accused—had this not existed he could have refused to accept them. Asllan was then told to find six other compurgators and attend the Assembly with them again a week later.

The week was spent by the compurgators in investigating the case, by the accuser and accused in visits to the compurgators,

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each seeking their support. Had four refused at this stage to take the oath Asllan would at once have been publicly convicted—if less than four, two substitutes would have had to be produced for every one that refused; two for one, four for two, and six for three, and there would have been no extension of the time limit. In this case, however, all the compurgators agreed to swear to Asllan's innocence, and he himself, towards the end of the week, swore on the Koran that he had nothing to do with the theft. Later the compurgators, led by Qazim's nominees, took the oath of Asllan's innocence before the whole village. Actually, Qazim cut short the proceedings after six or seven had sworn, as by then the compurgators most likely to know the truth had sworn to the suspect's innocence.

Having celebrated his acquittal with a banquet to the compurgators, Asllan two days later yoked the stolen ox, hidden during the case in a lonely sheepfold, to his plough. Now, although the mistake—either designed or accidental—of the compurgators was obvious, there was no legal machinery for annulling the verdict. In the opinion of the village, however, Asllan received his punishment when shortly afterwards his son was born lame.[1]

Qazim in Labinot put his case into the hands of the headman of his village. In the tribal north he would have entrusted it to the elder of his brotherhood, ward or village or perhaps to the bajraktar of his tribe.

Tribal officials, being hereditary, had more authority to act for their community than had the temporary headman in non-tribal districts such as Labinot. In Milot, the most northerly village of Kurbin, the victim tackled the suspect himself, asking him first if he had committed the outrage and then if he would take oath that he had not. In view of the fieriness of Albanian tempers this information is surprising—one would expect shooting to put an abrupt end to such an interview—but it is confirmed by information from the neighbouring village of Laç. When one of its inhabitants denied having received a loan, the lender asked him directly to swear in the presence of two or three witnesses that he had never been lent the money.

Only men of military age and capacity had standing enough to

[1] A very similar system of compurgators exists among the Naga tribes of Assam. There, however, though in some tribes there is no means of modifying the verdict if an oath prove to be false, in others a compurgator who discovers that his principal is lying can 'withdraw his life', otherwise in danger from the false oath, and so reopen the case *ab initio*. (Ed.)

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be put to the oath; such an ordeal was not for boys under twenty, old men over sixty, women, gipsies or lunatics. All of these were considered so irresponsible that even their sworn word carried no weight. One exception comes from Zerqan, where a woman accused of a petty theft like stealing a dress might take an oath in the semi-privacy of her home that she was innocent. If her fault was more serious, her oath was not accepted. A man—her husband or son or, failing these, her brother—had to take one for her, as he would have done for his senile father or his infant son. Another exception occurred in family oaths, as described later. But this exception was apparent rather than real. The infant boys who were present did not themselves take the oath. The master alone repeated the words dictated; the boys and other males were present solely to be implicated to the maximum extent possible in the dread consequences of perjury.

In criminal cases it was the suspect, the man who denied an accusation, who had to take the oath. In such cases its sole purpose was to clear him of suspicion; if he could take it, he was acquitted, and if he could not, he was convicted. The accuser was never allowed to support his accusation by an oath; even if he insisted that with his own eyes he had seen the crime being committed, he could not swear upon oath that what he said was true. For motives of spite might have induced him first to accuse his neighbour falsely, and then to swear a false oath. So the law said firmly 'It's for the denier to take the oath'.

Occasionally a suspect refused to take the oath. Then his accuser was at least tempted to shoot him. If it was a case of stealing he had to think twice; shooting the suspect would start a blood feud because 'murder for a fault (like stealing) isn't allowed', and perhaps the lost property was not worth the nuisance which the blood feud would cause. If it was a murder case, it did not much matter if he did shoot the suspect; he was already at feud with the murderer. In property cases refusals to take the oath seem to have been unknown when the dispute was in the hands of elders; if they ordered a disputant to take an oath, he dared not disobey for he knew that the whole community would gather to enforce the order. If one disputant, before the case had reached the elders, asked the other to take an oath that the property was his, his request was refused as often as not, and then shooting became inevitable.

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More often a suspect volunteered unasked to take an oath. For example, about 1931 a man in Zerqan shot his wife for some reason unknown and was then, very properly by local standards, hunted by her relatives. In desperation he offered to take an oath with twelve compurgators, the statutory number for a murdered woman, that he had not killed her. He managed to persuade all twelve to take the oath, and so, though the public still believed him guilty, he secured a formal acquittal and escaped further molestation by her relatives.

Here is another example. In the early 1930's a villager of Nangë in Lumë killed a neighbour, in order to marry the widow. The victim's cousin, as required by ancient custom, shot the woman and tried to shoot the man. He missed him again and again, but made his life such a misery that the man volunteered to take an oath with twenty-four compurgators, the statutory number for a man, that he had not killed his neighbour. Less lucky than the scamp of Zerqan, he was left to the cousin's vengeance. One compurgator failed to come to take the oath, so convicting him. It transpired later that the cousin had bribed this compurgator with two napoleons not to come, but the verdict of the oath could not be quashed and the case retried.

In property disputes the choice of the oath-taker depended almost universally on the wishes of the elders. When they decided that a dispute about land, or irrigation water was to be settled by an oath, they generally said that one of the disputants must swear that the property was his. Most often they preferred the man in possession, but sometimes they chose the one with the weaker claim in the hope that he would shrink from the ordeal, and so bring the dispute to a speedy end. In Çermenikë, and no doubt elsewhere, when there was some disparity of age they selected the older disputant, on the assumption that his greater age would mean greater knowledge of the facts. Very occasionally, before the dispute was laid before the elders one disputant bade the other take the very serious oath on the head of his son. Sometimes, particularly in boundary disputes, the elders put neither disputant to the oath. Instead, they chose an old man who had no direct interest in the dispute, but had learned the facts from his father and was trusted.

There were various names for the two principals. In all types of case and in all areas the oath-taker was called 'the master of the

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685 oath', but in theft cases he was often called the 'thief', and this
695 from the outset of the case until he was cleared. Father Gjeçov also calls the oath-taker in criminal cases 'the accused', but this seems a literary term chosen by himself rather than a popular usage in Mirditë. In theft cases, the accuser was most often described by a periphrasis—being called in Godolesh the 'plaintiff', in Mirditë 'the owner of the lost property', in Martanesh 'the owner of the stolen property', 'the injured party' or 'the man robbed', in Fulqet 'the injured party', and in Zerqan 'the owner of the property'.

695 In murder cases, save for Father Gjeçov's occasional 'loader',
[682] the accuser was always called 'the man with the feud', the 'avenger' (lit. 'the owner of the blood'), and in disputes about property 'the plaintiff'.

When an oath has been sworn by a suspect or a claimant to property, the innocence of the one or the claim of the other had generally to be established by the oath of a predetermined number of compurgators.

[673] It was legally impossible for a suspect to clear himself by his unsupported oath. In the words of a proverb 'A wolf licks his own flesh and eats a stranger's'. An oath-taker might not flinch from perjury in order to establish his own innocence or his claim to a property, but as compurgator he was likely to be more scrupulous. So the law said there could be no complete oath without a jury. But as usual it made exceptions. When a suspect or claimant was ordered to swear one of the very solemn oaths in which perjury involved the extinction of his whole family, his personal stake was so great that a jury was dispensed with. The best example comes from Martanesh, where a jury was necessary in oaths sworn on the Koran or bread, but not in famiiy oaths sworn at Balim Sulltan's grave.

[694] It was both the right and the duty of the members of the jury to gather all available evidence about the case and to make up their minds about its rights and wrongs before they came finally to court to record their verdict. An interval was therefore left between the nominations of jurors and the final oath-taking, in order to give them time to investigate the case. As a last step in their collection of evidence they then gathered to hear the oath-taker take the prescribed oath. They brought in their verdict by exercising their right to decide whether or not to take the oath. To

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return a verdict in the oath-taker's favour they turned up on the appointed day to repeat his oath themselves in public. They returned one against him in either of two ways; either they refused during the period of investigation to take the oath, or they did not turn up to do so on the appointed day. In the case of early refusals some modifications were allowed, but at the final oath-taking the law was rigid. If even one compurgator failed to turn up the suspect or claimant lost his case; there was no question of majority vote. They took no oath until the end of the case. They were not sworn, as elders were, to investigate fairly and to bring in a true verdict.

The general rule for selections was that half the compurgators in criminal cases were chosen by the oath-taker and half by the accuser or by the elders: the latter in Mirditë, Godolesh and Fulqet, the former in the Malësi e Madhe, Lumë, Martanesh, Zerqan and Labinot. In disputes about property the elders almost everywhere named the jurors. Whether they did or not seems to have depended mainly on whether they were local or from a distance. When local, they knew the character of each potential juror and could safely make their selection. When from a distance they did not have enough knowledge to choose, and preferred to leave the choice in the hands of the claimant. In Kurbin when house quarrelled with house or village with village about irrigation water, the claimant named twelve of the twenty-four compurgators required.

It did not much matter who were chosen as compurgators by a suspect. The practical certainty that they were his partisans and would clear him made their oath comparatively unimportant. For that reason they were not allowed to take it until the accuser's nominees had done so. In Mirditë the suspect was expected to announce their names to the elders before the ceremony, but elsewhere, as in Zerqan and the Malësi e Madhe, he had only to bring them along to the oath-taking. The only person he was forbidden to include was himself; 'though 100 compurgators are needed the suspect can't be one', said the law. If he liked he could even include a gipsy. He seldom or never did so, of course; regard for his own prestige prevented him from choosing so low a creature. On the other hand, it mattered very much who were named by the accuser. His quota took the oath first and so gave the others their cue. Their oath was weighty for several reasons. As the accuser's

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695 693 nominees they were supposedly free from bias in the suspect's favour. Then they were very carefully selected.

Since the truth or falsity of the result of the ordeal depended in the first place on their probity, and since it had to be certain that one or more of them would refuse to sell his soul by swearing falsely to a criminal's innocence, their personal honour had to be beyond question—they must never have been caught, for instance, swearing a false oath or taking bribes. They had further to be free from ill-will against either party—they must not be malicious. It was also important that they should have some knowledge of the case at either first or second hand. Hence the accuser liked to name the suspect's relatives and neighbours, as in the case of Qazim of Labinot, men who came from the suspect's village if not his brotherhood. In the case of a stolen animal, for example, the relatives in particular might have seen the meat being eaten by the suspect's family or the bones being gnawed by his dog. In all cases of theft a near relative would know that the suspect was not at home at the time. But if any of the suspect's relatives were unscrupulous the accuser naturally preferred to nominate others. Better an ignorant but upright compurgator.

[52.3] Certain members of a tribe could not be compurgators. A gipsy, we have said, might serve on a suspect's behalf, though he might not be put to the oath to discharge himself of an accusation or to make good his claim to a property. Old men, boys and lunatics were never allowed to take oath either as suspects or as compurgators; nor were women except in very rare cases.

A Moslem hoxha or sheikh counted as only one compurgator, but, being regarded as a man of weight, tended to come high on the accuser's list. A Catholic priest was theoretically exempted by his office from being put to the oath as either suspect or compurgator, but if named as compurgator, he counted in his single person as equal to twenty-four. If a bajraktar of Mirditë or one of the Gjomarkaj family was chosen as compurgator in a case involving twenty-four, the court named twelve others and declared the bajraktar or Gjomarkaj equivalent to the remainder.

The suspect had the right to object to the accuser's nominees if they were not in a position to know the truth of the case, or to risk taking an oath to clear him. If his objection was obviously well founded, the accuser had to change his nominees. The suspect was also protected from ill-will on the part of a compurgator. As

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soon as they were named, the presiding authorities were legally bound to ask if he thought any of them would leave him in the lurch out of jealousy or spite. If he could produce reasonable evidence that any of them would, those he mentioned had to be changed. But only up to a maximum of three where twenty-four had been prescribed, and of two where twelve or eight had been. In Zerqan, however, the suspect could not raise objections to the accuser's nominees; in compensation the replacement rules were somewhat relaxed.

Men sometimes declined nomination. Those proud of their high reputation for uprightness disdained to be mixed up in a case where the suspect was notorious for evil-doing, even if it was known that for once he was wrongfully accused. Others would not lend their weight to a petty case and consented to take the oath only in serious matters, such as murder.

In most of the tribal areas, a man whose wife was pregnant could ask to be excused. It was believed that it would be a crime for him to take the oath. If he swore falsely, through inadvertence or not, his sin would be visited on the unborn child, bringing it into the world lame or with such deformity as six fingers instead of five. Sometimes he agreed to take the oath if it were postponed until after the child was born, but more often his brother or cousin took it in his stead.

Refusals for such personal reasons as the above almost always took place as soon as the nominations were made. No difficulty was made about accepting them and before the Assembly dispersed another compurgator was named in each recusant's place. Later refusals were never prompted by anything but disbelief, real or feigned, in the suspect, and were treated differently. At the same time as the compurgators were named, the authorities informed the suspect of the precise terms of the oath which he and his compurgators must take to vindicate him, and of the time of the ceremony. It then became his duty, not only to find his own quota of compurgators, but also to inform the accuser's compurgators that they had been nominated. His own never caused much difficulty. One or more of the others might decline. A compurgator who could not believe the suspect's oath dared not repeat it himself. Possibly the suspect was likeable enough but 'an oath can't be taken out of favouritism'. Other nominees did not refuse out of hand but waited until they had made some inquiries into the case and

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695 693 cross-questioned the suspect. Anyone who discovered that the man was guilty sent in his refusal to go on the jury. Sometimes, too, a nominee was bribed or persuaded by the accuser into refusing. Or one might have a grudge against the suspect, and, though knowing him to be innocent, might seek to gratify his grudge by declining to take the oath.

On every occasion when a named compurgator eventually declined to serve, the suspect had to find two substitutes for him, and these had to satisfy the accuser. If the first pair suggested did not please him, the suspect had to search until he found two who did. In Çermenikë he was allowed twenty-four hours in which to find them. But if more than three out of a total of twelve or eight, or one out of a smaller number, declined, this provision did not apply. It was concluded that the oath could not be taken, and without more ado the suspect was pronounced guilty; he had in criminal cases to pay the legal penalty for the crime, and in disputes to forfeit the property he claimed. Occasionally, as in Zerqan, when the recusants were strongly suspected of refusing from motives of spite, an accuser might overlook their refusal and inform the suspect that he need not even find one at all. More often, however, a Zerqan accuser followed the usual practice and exacted two compurgators for every one that drew back. In Fulqet it was the Village Assembly, not the suspect, who selected substitutes for recusants.

The number of compurgators depended on the nature of the case. For such trifling matters as the theft of a pig, sheep or goat a 'little jury' of one man sufficed. Otherwise a jury consisted of anything from two to twenty-four men, according to the importance of the case. In murder cases there was a universal rule that twenty-four compurgators were necessary when the victim was a man and only twelve when she was a woman. In most other cases the number required varied with the locality. Although it might have been expected that economic factors would explain these variations, that where horses, for instance, were scarce, the case would be thought more important and the number of compurgators increased in proportion, this does not appear to have been so.

If a dog was killed in the farmyard in Lumë, twenty-four compurgators, the customary number for a murdered man, were required. The murder of a dog was as serious in Lumë as the murder of a man, as is further indicated by the fact that the same

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blood money had to be paid. Possibly, too, there was a feeling here as in other areas that the dog's owner might have emerged into the farmyard and been killed by its assassin. In all cases of damage to property the number of compurgators depended, not only on the value of the property, but also on the risk to the owner's life which the crime entailed. This risk depended largely on the site of the crime. If, for example, a house was set on fire, it was reckoned that one of the men in it might have lost his life; if not burned to death he might have been shot by the incendiary when trying to escape from the burning building. The oath in such a case was on that account with twenty-four compurgators. But if a haystack was fired six were enough. The risk to life was infinitesimal, and the value of the haystack much inferior to that of a house. Similar considerations graded thefts. If a house was burgled by a thief who went upstairs and stole bedding or kitchen utensils there were again twenty-four compurgators. For a thief wicked and desperate enough to enter another's house was an obvious killer. A thief who bored a hole in the wall of the farmyard and stole something from the yard was certainly 'a big thief', but so much less of a menace to his victim's life that he was put to the oath in Kurbin, Fulqet and Zerqan with only twelve compurgators. A thief who stole at a distance from the farm buildings needed only six in Fulqet. In Zerqan, however, even this form of theft was considered heinous enough to demand twelve compurgators.

Some of the same principles operated in thefts of sheep and goats. In Martanesh, the Malësi e Madhe and Shalë only one compurgator was required when a single sheep or goat was stolen at a distance from the farm buildings. The animal's value was small and the risk to a man's life infinitesimal. The number of compurgators increased, up to a maximum of twenty-four in Martanesh and twelve in Shalë, with the number of animals stolen. In Fulqet the grading was more detailed. If a single sheep or goat was stolen at a distance, the suspect, most exceptionally, required no compurgators to back him up; it was enough if he swore himself that he was innocent. If, however, the stolen animal was a bell-wether, the most valuable animal in the flock because it led it, he had to take the oath with six compurgators.[1] If an ordinary sheep or goat was stolen from the farmyard he had to find four compurgators, and if several animals were so stolen, twelve. In Labinot the law was

[1] Vide infra, p. 208.

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695 more severe, three to six compurgators being needed when only 693 one goat had been stolen in the most innocuous circumstances, while grazing in the forest. In Kurbin the law was still more drastic. Whether the stolen animal was an ordinary sheep or a bell-wether, an ordinary goat or a bell-goat, and whether the theft took place in the lonely forest or in the fold at the farm, the suspect had to take the oath with all his family, the gravest oath of all.

In disputes about property the number of compurgators mainly depended on its value. In Kurbin as many as twenty-four might be prescribed in irrigation disputes, this number probably reflecting the frequency with which such quarrels ended in murder. In Fulqet there were twenty-four compurgators in land disputes but in neighbouring Dibër twelve were enough. In Fulqet all the land is under water, but in Dibër very little can be irrigated. A rod of land in Fulqet is consequently more valuable—better worth fighting for—than a rod in Dibër.

The number of compurgators was not absolutely fixed by law and so might vary with the case. In all areas it was settled by the elders in disputes about property, but in criminal cases the usage differed. In Mirditë, Labinot and Godolesh the elders again said how many there should be, but in Malësi e Madhe, Fulqet and Martanesh the accuser had this privilege. Too often the number then depended on the degree of ill-feeling between the parties. The angrier the accuser was, the more compurgators he demanded. For the more they were, the more trouble the suspect had in persuading them to take the oath that would acquit him.

The compurgators, it should be mentioned, received no payment for their trouble except for the meal given them in most places by the suspect.

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694 time limit. The request was always granted. But a second could not be made by the same compurgator. If the final day slipped by unnoticed, as sometimes happened when it was distant, an extension was generally arranged by mutual agreement.

In Catholic areas the incidence of Lent might delay matters, as Catholics did not take oaths during holy seasons.

In most districts it was the elders who said where the oath was to be taken, but in Kurbin and Lumë it was the accuser. A spiteful accuser of north Lumë, for instance, could send a suspect, with all his compurgators, to take the oath in south Dibër, a four days' journey there and back, with all expenses falling on the suspect. It was probably to prevent such displays of malice that the choice of place generally rested with the elders.

695 778 There was often a close connexion between the place at which, and the sacred object on which, the oath had to be taken. The chief sacred objects on which Catholics were called to swear were the Gospel, the crucifix and the local church or its altar. Among Moslems, there were the Koran, the local mosque and a saint's grave. The Gospel in the one case and the Koran in the other was usually chosen. Dibër, a purely Sunni Moslem district, and somewhat fanatical, claimed to take the oath only on the Koran.

North Albanians went to church to swear on the Gospel or crucifix, but to their scandal the Catholics of Kurbin, Mirditë and Lurë had these sacred emblems carried to the suspect's house. Indeed, in Kurbin and Lurë an oath was never taken on the Gospel except outside the precincts of the church; the same was presumably true in Mirditë. No reason for the taboo is known; perhaps the combined sanctity of Gospel and church was thought to involve too much risk. When swearing on an altar, the oath-takers had naturally to enter the church, but when swearing on the church itself they remained outside, touching only a stone in the south door, possibly the threshold, perhaps a door-jamb. Sometimes they repeated the prescribed oath in the neighbourhood of the church. Oaths were most commonly taken on the church in cases of petty theft; graver cases demanded an oath on the Gospel or crucifix.

Moslem procedure was in general so similar to Catholic that it seems to have been inherited from the days when all the area under study was Catholic. To swear on a mosque, as the Moslems of Çermenikë sometimes did, it was enough to touch its door-jamb or threshold, precisely in the Catholic manner. To swear on the Koran,

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some preferred to go to the mosque, as the Catholics in the north went to church. But more often the Moslems, like the Catholics of Kurbin, went to the suspect's house. Since no possible sanctity could attach to a private house, it seems to have been the sacred book rather than the building which gave such oaths their value. In Zdrâjshë and Zerqan, indeed, it was openly said that provided an oath was taken on the Koran, the place where it was taken did not matter. It is probable that the same view was held in Krasniqë in the north-east, where oaths were taken in either the mosque or one of the shady spots called *ulicë*. It seems possible that these groves might be sacred because growing on the sites of former churches, but the local Moslems said that there had never been churches there and that no sanctity attached to the spots.[1] When taking oath by a sacred grave, Moslems usually entered the mausoleum; for such oaths there was no Catholic parallel.

In Zerqan a suspect must never be asked to take an oath in or near his own house, for if he swore falsely the house might collapse or otherwise come to grief. This fear was not acknowledged in the many other areas where such oaths were common, but it may have been implicit. If a suspect staked his own house by taking the oath in it, he would naturally try harder than ever to avoid perjury.

In mixed districts the suspect and the accuser might be of different faiths. In that event when the decision lay with the elders, the suspect's religion decided whether it was in the church or mosque, on the Gospel or the Koran, that the oath should be taken. When the decision lay with the accuser his wishes prevailed. In such districts the jury too was often mixed. They had all to take the same oath as the suspect. So Catholics had to make oath in a mosque and on the Koran if the suspect was a Moslem; and in the opposite case Moslems had to make it in a church and on the Gospel. In Vinjollë, lying some six miles north of Krujë, after it became Moslem an oath could still be taken on the Gospel as well as on the Koran. In Lurë, when it was abandoning Catholicism, a man could swear, at least in conversation, by the mosque or church, according to which came into his head first, irrespective of his own or his hearer's religion.

Moslems but not Catholics might take oath at a sacred grave. This might stand in a single mausoleum or form part of a monastery. The most important of these graves were Sulejman Pasha's at

[1] But doubtless a pagan survival of the sacred grove (*lucus*). (Ed.)

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695 Tirana, Sheikh Hasan's at Nangë in Lumë, Sheikh Ibrahim's at
778 Surroj across the river Drin from Nangë, Sheikh Fejza's at Bulqizë, Balim Sulltan's at Martanesh, and those of two abbots at Krujë. Sulejman Pasha and Sheikh Ibrahim lie in an isolated mausoleum, [795] Balim Sulltan in a cave, and the others in monasteries. These saints belonged to different sects; Sulejman Pasha, the soldier who founded Tirana in the seventeenth century, was a Sunni; Sheikh Hasan, founder of the monastery at Nangë, and his brother, Sheikh Ibrahim of Surroj, were Khalvetis; Balim Sulltan of Martanesh and the two abbots of Krujë were Bektashis; and Sheikh Fejza, founder of the monastery at Bulqizë, a dissident Bektashi. Sometimes it did not matter to what sect the buried saint belonged. Sheikh Hasan of Nangë was so renowned that the local population, even if not Khalvetis, took their oaths on his grave and never in the mosque, and Catholic as well as Moslem oath-takers came in serious cases to his grave from Shkodër, four days away. Sulejman Pasha's grave drew oath-takers from as far away as Martanesh; these had long since forgotten his history, and, though ardent Bektashis, did not care that he was a Sunni. Sunni Albanians are not so liberal however; taught to abhor the Bektashis as unorthodox Moslems, they left the graves of Balim Sulltan of Martanesh and the two abbots of Krujë to Bektashi oath-takers. Sheikh Fejza, abhorred by Sunnis as almost a Bektashi and by Bektashis as a backslider from their faith, commanded allegiance only among his own followers in Bulqizë. Oaths used to be taken in three mausolea in the Bektashi monastery at Krujë, but by 1930 the abbot refused to open one for such a purpose. Once, as an oath was being taken in this mausoleum, both disputants fell dead; there had been roguery on both sides as the buried saint was quick to detect. Ever afterwards the abbots restricted oath-takers to the two mausolea in which the saints seemed slower to wrath.

695 Among invocations of the Deity used in oaths, the following are
782 recorded: 'By the Lord' (Perlat and Shkrel); 'By this Lord Who gave me life' (Perlat); 'By this Lord Who is in Heaven' (Shalë); 'By Our Lady' (Shkrel); and 'By the Blood of Christ' (Shalë). In all these the influence of the Church is evident, but there are hints in the Albanian originals that some are older than the Church.

The Deity was invoked by Moslems as follows: 'By that Lord' (Godolesh); 'By God' (Dibër); 'By God, with God, from God'[1]

[1] *Vallahi, billahi, tallahi.*

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(Godolesh and Lumë). The first two phrases are evidently old Albanian and have nothing exclusively Moslem about them; the second (lit. 'May I see God') has even a Catholic ring. The third is widely known all over the Moslem world and in certain areas which were once under Moslem rule. But it is used in a magical rather than a religious sense. It is found in magical formulae among the Arabs of Egypt and the Christian Greeks of the island of Zea, next door neighbour to Euboea.[1]

The only invocation of the Deity which the author recorded among the Orthodox was in Shpat and ran as follows: 'By that Christ in Whom we believe.' It is evidently a Church formula.

There was no sign that any of these oaths was preferred to the others; they seemed to have equal value. Readers who know the Catholics and the Orthodox, the two religions which divided Albania before the Turks came in the fifteenth century, will be struck by the paucity of references to Christ and the Virgin Mary and by the emphasis on God; this may be a further indication that the oaths go back to pagan days when neither Christ nor the Virgin was known.

Formulae for invoking Catholic saints were such as 'By that St Nicolas' in Kurbin and 'By the candle of St Nicolas' among the Highlanders of Breg i Matit and Gurrëzë. Both were very grave oaths. The candle in the second is the wax taper lit before pictures of the saint by the devout; oath-takers seem to have feared that perjury would extinguish the flame of their life as easily as a candle could be put out. Of all their saints too, the Catholic Highlanders preferred St Nicolas. No Moslem saints were invoked as such; it was rather by their graves than themselves that oaths were taken. A strange oath, which comes from Surroj, was an exception. This ran 'By this patron saint of coffee'. Coffee, the peasants of Surroj explained, has a 'very important' patron saint. All over Albania coffee-house keepers make a libation to him every morning by pouring away the first cup of coffee that they make. They hope that after being placated in this way the saint will send them many customers. Some believe that he lies buried somewhere in the east of the Turkish empire, possibly in Arabia.

Catholic priests and Moslem clergymen—hoxhas and sheikhs among the Sunnis, abbots (*baba*, sing.; *baballar*, plur.) among the Bektashis—were respected as men of God, and Bektashi abbots

[1] See *Folklore*, Vol. XXXVII, p. 195 (June 1926).

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695 even became saints at their death, but an oath 'by the priest' or
698 'by that hoxha' was never taken; it would have been regarded as
793 sacrilege.

695 A most interesting oath was taken by both the Orthodox and the
792 Moslems of Berat town and district. Its commonest forms were
[779] 'By Him of Tomorr' and 'By the Holy One of Tomorr'. The deity that dwelt in pagan days on the summit of Tomorr, the lofty, beautiful mountain that dominates the town of Berat, is still a living force in the district. He was, indeed, so dreaded that even in conversation he could not be named, but only darkly alluded to. 'By that mountain top' is no less solemn an oath than the more definite pair already given. No man had been known to swear any of them falsely.

[821] By what was perhaps a survival of early nature worship, oath-takers sometimes invoked natural objects as in the oaths, 'By this bright light which is dawning', 'By this evening which is coming', 'By this night we have to-night'. These were all given by Catholics in Perlat. The first two were used for oaths taken in the morning and the third for those taken in the evening. Moslems in Godolesh and Labinot sometimes swore 'By this sun' and 'By this earth'. The latter was a very solemn oath, earth being weighty for two reasons: man was made of it and it lies heavy on a dead man who committed sins such as perjury during his lifetime. Apparently oaths were not taken 'by this fire' or 'by this moon'; perhaps both fire and moon lack the inevitability and stability that fitted dawn and darkness, the sun and the earth, for worship by primitive Albanians.

695 Among oaths by sacred buildings were such as 'By this church'
782 among Catholics and 'By this mosque' among Moslems. They were
778 chiefly employed conversationally, and meant little more than our own expression 'on my honour'. Indeed, a man of Lurë used them indifferently, irrespective of whether he or his hearer were Catholic or Moslem. But when a Moslem of Martanesh swore 'by this holy place' as he stood in Balim Sulltan's mausoleum, his oath was very solemn. So, too, were the oaths in Bulqizë 'by that shrine', the domed tomb of Sheikh Fejza; in Tirana by the grave of Sulejman Pasha, the seventeenth-century founder of the town; in Krujë by the tombs of two Bektashi abbots; in Nangë, Lumë, by the tomb of the Khalveti saint, Sheikh Hasan; and in Surroj, by the grave of Sheikh Hasan's brother, Sheikh Ibrahim. In the last case the formula was rather unusual; standing in the mausoleum (*teqe*) the

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oath-taker began by saying 'May Sheikh Ibrahim cut short my life'. 695
In the other cases he used some vague formula such as 'By this 792
holy place' or 'By this shrine'. 778

Oaths by smaller sacred objects were all very similar. The formula used in swearing on an altar was in Shalë 'By this altar'; on a church door in the Malësi e Madhe and Kurbin, 'By these things of the Lord'; on a crucifix or gospel in Mirditë, 'By this holy thing of God'; in Kurbin 'By this thing of God'. The more fanatical of the Moslems preferred to swear on the Koran under a Turkish, or rather Arabic, name. Thus 'By this holy book' was liked in Lumë, and 'By this sacred book' everywhere. Others, as in Vinjollë and Zerqan, swore 'By this thing of God', or if in Godolesh, 'By the holy thing of this our God'. The last oath is very close to the oath of Catholic Mirditë on the Gospel, and there is little doubt that this Moslem oath was once Catholic or Orthodox. Indeed, it may have been pagan. The vagueness of their phraseology made the transference from one religion to another easy. A similar vagueness characterizes most of the oaths in this paragraph. Its origin lay in the simple Albanian's idea of respect for a sacred object; he thought that naming a person or thing detracted from the majesty of that person or thing. Besides preserving the efficacy of ancient oaths through later changes of religion, this vagueness also reduced any repugnance which a Catholic or Moslem in a mixed jury might feel at being asked to swear on the holy book of the other's religion. It has even led Catholics of Lurë, when Islam was fast displacing Catholicism, to anticipate the future conversion by swearing the essentially Moslem oath 'By this *hajmali* (sacred book)' on the Christian Gospel.

A curious and most solemn oath among Catholics was 'by the stone'. This was not any ordinary stone that the oath-taker might pick up regardless of his religion, but was a special one found only among Catholics. Triangular in shape, it had a hole in each of its three corners for attaching the balance in which persons minded to offer votive candles to church weighed the wax of which each was to be made. It derived such sanctity from this association with the church that an oath on it was as serious as one on the Gospel or crucifix. Such an oath was in fact reserved for occasions of special gravity, as when a man suspected of a heinous crime was put to the ordeal, or a whole tribe swore to refrain from acts disturbing the public peace, or a community took oath to stick together through

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695 782 778 thick and thin. No memory of oath or stone survives in areas such as Çermenikë and Lumë, which abandoned Catholicism some centuries ago.

A number of very solemn oaths were taken on objects that had no obvious association with religion, and these seem to date from the oldest days of Albanian existence. Thus an oath in very common use all over the country was 'By bread'. Among the Catholics where the priests combated everything that they thought was pagan, this oath was more often heard in conversation than in ordeals, but among the Orthodox and Moslems it held a higher place. The most solemn oath of the Orthodox of Shpat was 'By that Christ in Whom we believe and by that bread we eat'. The Moslems generally used a loaf, treating it like a Koran.

Sometimes at least in Martanesh an uncooked maize-cob served instead of a loaf. Both in Martanesh and in Lumë salt was often added; the formula then was in Lumë 'By the bounties of the Lord'.

One advantage of swearing on bread was that the oath could be taken, and peace made as soon as trouble arose. If two men who had met in a house quarrelled, one accusing the other of letting his animals stray into his maize-field or of cutting firewood in his forest or the like, the accused could immediately clear himself, provided two or three other men were present as witnesses; no set jury was necessary. All he had to do was to lay his right hand on bread and say, 'May the bread kill me'. This oath was known in places as far apart as Labinot and Lumë. It has already been said that though a woman could not make oath on the Koran, she might, in Zerqan if accused of petty pilfering, make one on bread. Men in Godolesh, which was an Orthodox village till 1910, sometimes swore 'by this bread' but did not consider it one of their most serious oaths.

695 778 The reason for choosing bread for such a serious occasion as an ordeal is not certain. The Orthodox oath from Shpat speaks of eating it so that the idea of its being the staff of life seems present. Its conjunction with salt in Lumë and Martanesh supports this idea. On the other hand, the influence of Holy Communion also seems at work. The Orthodox of Albania as of Greece speak of it as the Body of Christ, and on that account consider it sinful to cut rather than break it before beginning to eat. Moslems regard even crumbs of it as too sacred to tread on. Most probably the idea that

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it is the staff of life is the oldest, and religious conceptions come later. As essential to life, it was suited to oath-taking; as shown by the oath 'May the bread kill me', it had power to punish perjury with death.

Two more formulae remain to be mentioned. The first was 'By my head', and the second 'By the head of my son'. The former was thought justifiable; one might do as one pleased with one's own head. But a man who swore on his son's head was strongly disapproved of; only a low fellow, it was thought, would risk his child's life by such an oath. Nothing less was involved, as appears in the following full formula for a land dispute. 'By the head of the son that I have, this land is mine. If it is not mine, may I weep for the son that I have.'[1]

When the time came to take the oath, both Catholics and Moslems behaved as if about to perform an act of worship. Catholics removed their caps and made the oath bareheaded; they also crossed themselves as they began. Sunni Moslems performed the ceremonial ablutions incumbent on them before they pray. By their preliminaries the Catholics sought to indicate respect for the Deity; by theirs the Sunnis sought also to make their oath binding —without them, so they believed, it would be null and void. The Moslems of Martanesh, being Bektashis, did not perform the ceremonial ablutions, but suspect and compurgator when taking the oath in a house had to stand facing Mecca, with the witnesses behind them. As each man's turn came, he advanced towards the Koran or loaf of bread, knelt, and laying hand on the book or bread repeated the prescribed words. This reverence for the sacred emblem was shown by both religions, sometimes with quaint little ceremonies. Thus, when the Catholics of Lurë swore in the open on the Gospel, as was their common practice, they picked up some grass or other greenery and held it over the book while they recited the oath; the purpose of the grass is not clear.[2] After the conversion of Vinjollë to Islam from Catholicism oaths were sworn indifferently, as has already been said, on the Gospel or Koran. When at a house, the sacred book was laid on fresh grass near the house or on a clean place in the farmyard. Each oath-taker kissed it three times, before venturing to put his hand on it and repeat the oath.

[1] The oath on a son's head is common to the Moslem world and if perjured involves the son as well as his father in eternal damnation.

[2] Possibly it involved the false swearer in withering like the plucked grass.

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695 Ordinarily the Gospel might be open or closed and the Koran bare
788 or wrapped in a cloth. A most interesting survival from Christianity comes from Fulqet, where the men, who now are all good Sunni Moslems, tapped their breasts with their fingers when making an oath; the gesture had lost the definite form of making the sign of the cross, but its origin seemed unmistakable.

695 The oath was taken in two stages. First the suspect swore in the presence of all the compurgators that he was innocent of the crime, and then the compurgators swore in the presence of witnesses that the suspect was innocent. He and they swore in the same manner. Bareheaded and making the sign of the cross if Catholic, with hands and face ritually cleansed if Moslem, each in turn invoked the Deity or laid his hand on the sacred object prescribed and repeated the oath. The compurgators did not as a rule take the oath until the suspect had done so and thereby assumed all possible responsibility before God and man for its truth. But, exceptionally, in Lumë a suspected murderer—and probably a suspected thief too—did not take the oath at all unless the compurgators, fearing that he had committed the crime, and lacking convincing proof one way or the other, wished to secure such evidence as his oath provided. In Zerqan a suspect took the oath only when the compurgators doubted his innocence.

Of the compurgators the accuser's nominees came first, headed by the suspect's nearest relatives and neighbours, the most responsible because the most knowledgeable of them all. As soon as the first two or three had taken the oath the others shed their fears of perjuring themselves and took it in their turn. Lastly came the suspect's quota, free of qualms. When the jury was large, the accuser often interrupted the proceedings before all the suspect's quota had sworn. Since his own nominees, 'good men and true', and the first of the suspect's quota had taken the oath, there could be no doubt that the remainder would do so. In Dukagjin, the Gjakovë highlands (Malësi-e Jakovës), and a few other areas in that neighbourhood, only half of the compurgators ever recited the oath; the others merely put their hand on the Gospel and passed by. The first man recited the oath in full, the second touched the Gospel and passed by, and so on. According to the Franciscan priest of Theth the even numbers were there to vindicate the odd numbers, the only complete oath-takers, but Father Gjeçov describes the custom somewhat differently. He says that half the

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compurgators took the oath and half stood listening with their hands folded at the waist. As only the former touched the Gospel they were called 'oath-hands'. Possibly Father Gjeçov's information came from a different area of Dukagjin, or even since his time the details may have been modified.

The compurgators took the oath on the day officially appointed. The suspect took it a few minutes, a day or several days earlier, as best suited the general convenience, and generally in the presence of the compurgators only. The taking of the oath by the compurgators was a more public affair. The accuser's presence was in most places indispensable. If he would not, or could not, attend the ceremony, he had to give up trying to get his rights by an oath and had to find a private detective to take up the case. In Zerqan, apparently, the accuser did not need to be present, in theft cases at least. The number and quality of other witnesses varied in some places, such as Kurbin, with the gravity of the case, and in others with local custom. In Fulqet, Godolesh and Çermenikë it was obligatory for the village to turn out; otherwise the oath was not considered valid. In Mirditë the elders trying the case had to be present and so too in Theth, Dibër and Çermenikë; if, however, one of them found it inconvenient to attend, he could, in Dibër at least, send a deputy. In Lurë the Catholic priest had to be present when the suspect was Catholic, as had the Moslem sheikh of Ceren when he was a Moslem. In the Malësi e Madhe, Bytyç and Martanesh, an oath was valid if witnessed by the accuser and a few of his friends.

In grave cases a whole family might be asked to take the oath. In that event the master spoke in his usual capacity of household representative, for the rest of the family as well as himself, and it was forbidden to ask them to repeat his words. In Mirditë the women and children were not involved, but in Malësi e Madhe all the males of the family had to be present regardless of their age, and the master held an infant boy in his arms while he swore that he and they were innocent. In Martanesh, too, the accused had to bring all his sons, all his brothers and all his brothers' sons to the ceremony. The suspect had to swear to the whole family's ignorance as well as innocence of the crime.

In most districts this oath was taken at any of the usual places for oath-taking, but in Martanesh it was taken in the most solemn circumstances possible, at the grave of Balim Sulltan. It was a very

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695 672 783 serious oath, entailing the extinction of the whole family if the oath-taker perjured himself. This was symbolized clearly in the Malësi e Madhe ceremony. The master's perjury, if any, and its penalties would, it was believed, run through his body and the infant's like an electric current and destroy both. The wording of the oath seems to have been suitably strong as well as comprehensive. The only available example comes from the Malësi e Madhe, and runs, 'By this holy oath of the Lord, if I did it, may He reward me. As for the male of yours who has been killed, neither I nor my kinsmen, male or female, have killed him with our hands or our guns or with a guest's or agent's hands or gun.'

695 [685] The family oath was reserved for men who were expected to deny a serious crime of which there was strong evidence that they were guilty. In the Malësi e Madhe, and apparently in Martanesh also, this was murder. So in these areas a family oath was tantamount to one with twenty-four compurgators. In Mirditë and Kurbin it was chiefly used in theft cases. If a sheep or goat in Kurbin was stolen, the thief had to return two sheep or goats to the owner, and pay a fine besides; if, however, he denied the theft, he must swear with his whole family that he was innocent. By contrast, a man who denied stealing an ox, a horse or a mule, was only ordered to take the oath with six compurgators. The theft of these animals was less serious than stealing a sheep or goat; for they only represented wealth, whereas the sheep and goats provided food for their owner.

[694] In Mirditë the accuser had the right to ask a family oath of any man whom he strongly suspected, and could also say that he must take it with a jury. In that event he had to specify the various families in the village who were to compose the jury. For the Malësi e Madhe there is no evidence, but in Martanesh a jury was seldom required in family oaths. Group oaths were used in cases where the suspect, told to take the oath with twenty-four compurgators, failed to find so many ready to swear to his innocence and volunteered to take the oath with all the males of his family in Balim Sulltan's mausoleum. If he did so, nothing more was required of him.

In Mirditë, as Father Gjeçov informs us, a truculent accuser might also ask the oath by the head of the suspect's son; in that case the accused could not refuse to take it, unfair and dangerous to the child though it was. If there were more than one boy in the

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family, the oath had to be taken on all their heads. On the appointed day, the accuser went to the suspect's house, where the suspect gathered all the males in his family and drew their heads together. After laying his hands on their heads to establish the contact which would involve them in his perjury, if any, he took the oath, saying, 'By the heads of my sons, I have not done you the wrong of which you have accused me, and I do not know who has done it'. The gravity of this oath made it particularly useful in ending embittered disputes before they came to bloodshed, for only a man very sure of his position or one utterly unscrupulous would swear it.

Social oaths were designed to check lawlessness and breaches of the peace within the tribe and were the commonest types. In Document II, Mnelë and Gomsiqe swear[1] to stick together whatever may betide for mutual defence against external danger. Sometimes the tribe, or at least the brotherhood in the Malësi e Madhe, swore that they would not enter a certain house. Though this oath was never taken except to make the law-breaker obey a tribal judgement, it was not considered a good oath, and breaking it soon after it was sworn was advocated. Sometimes, too, a village would assemble and take oath not to send their animals to the summer grazing grounds before a fixed date or to cut wood in each other's forests. In Lurë irrigation rights still depended on oaths taken by the various claimants several generations ago and still binding on their descendants. This example shows how the perpetuity of oaths prevented renewals of litigation; a right once settled, remained settled.

When about to pronounce a decision or just after pronouncing it, elders frequently took oath that they had judged or would judge righteously. In all the tribal area they inevitably carried a stone on their shoulder to signify that they must carry it throughout eternity if their oath was false. In Shalë their formula was, 'With body and soul, with good luck and good fortune, so far as I can tell I have decided this matter without guile, without bribery and without prejudice'.

[1] See Appendix, Document II, p. 262.

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CHAPTER XVIII

THE OATH

III. VERDICT AND PENALTIES

695 The only way of bringing in a verdict in the suspect's favour was, as has already been said, by his taking the prescribed oath himself and inducing the prescribed number of compurgators to repeat it. This done, he was acquitted (*u-la*, lit. 'he was washed').

By contrast, there were several ways of reaching an adverse verdict. The suspect might pronounce it himself. Sometimes superstitious fear made him refuse at the first asking to take the oath. This only occurred when he knew he was guilty of the crime, or had no lawful right to the disputed property. Sometimes a bolder suspect got as far as the door of the church or mosque, and then was stricken with sudden fear of the perjury he was about to commit, confessed to the crime and faced up to the consequences. A slyer suspect, hoping that the matter was forgotten, sometimes let the day for taking the oath pass. But the accuser was generally on the watch and frustrated his hope. First he informed his own elder that the appointed day had come and gone without the oath being taken. This elder having passed on the information to the suspect's elder the two dignitaries went together to the man's house, pointed out that the term was up and declared that since he had not taken the oath he had lost his case.

There were at least three ways by which the compurgators might bring in a verdict of guilty. The first was when three out of twenty-four compurgators, two out of twelve or eight, and one of a smaller number, informed the suspect soon after their nomination that they did not have enough confidence in his innocence to take the oath that would clear him.

Again, if the compurgators did not believe the suspect's oath, they could take one of two courses. They might tell him there and then to go and pay the penalty for his crime because they did not believe his oath and must refuse to acquit him with their own. Some of them were, of course, certain to know the truth from other sources and so could check his oath. Or they might wait till the day of taking the oath and then, without giving the suspect any warning,

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fail to turn up. If even one so failed, the suspect was declared guilty. Indeed, the easiest and least obnoxious way of convicting the suspect was not to turn up for the oath. Such was the almost universal rule. In the Malësi e Madhe, however, a message was sent to a missing compurgator to make sure that he had not merely forgotten the date. If he replied that he had not come on purpose because he thought the suspect was guilty, the case ended, a verdict of guilty being returned. If he replied that he was absent for personal reasons, an attempt was made to find two others to take his place at once; if this succeeded, the oath was taken. If only one compurgator did not attend in Bytyç, the oath could be taken, particularly if the reason for the compurgator's default was the newly discovered pregnancy of his wife. These rules applied only to the accuser's quota. If one of the suspect's compurgators failed to turn up, any bystander who could be persuaded to join the jury might be substituted. As the suspect was not bound to disclose the names of his quota, the public was often unaware that the second man was a substitute and not the suspect's first choice. 695

In Mirditë the verdict was virtually known before the taking of the oath. When the suspect felt ready to take the oath he invited the compurgators to a meal in his house. If they declined his invitation it meant that they thought him guilty and would not take the oath. If they accepted his invitation he could sleep in peace, secure in the knowledge that whenever the time came for them to take the oath, they would do so. Once they had eaten his food, the oath was as good as taken. This custom may have developed because the suspect had to assemble the compurgators to hear him take the oath and was forbidden by his instincts of hospitality to leave them unfed. In Labinot, Çermenikë and Zerqan, the suspect also offered the compurgators a high-class meal, with meat and rice pilaff, but not till after they had taken the oath, and only if he had been cleared. The meal was thought to ratify the oath and to reward the compurgators in some measure for their trouble. [574]

A loser who did not abide by the verdict of the oath lost 'face'. Some years ago, a family in Fulqet died out. Two neighbours, more or less related to the family, claimed its land, one taking possession of it and the other gathering a stackful of hay from it. Even the women quarrelled so fiercely over it that they had to be separated by gendarmes and the elders intervened and said that the relative in possession must take an oath with twenty-four 696

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sent the cousins word to that effect and said he was sending a deputy. 693
When the latter arrived, he found the named cousin ready to take 696
the oath but no boundary stones in place. He refused to witness the oath because Cen's condition had not been observed. The matter was referred back to Cen, who said that since the cousin put to the oath had been unable to take it as enjoined, the other must have the land. If they did not wish to accept this judgement, let them bring him four napoleons each as his fee for the incomplete oath, and let them find another elder and he would pay his expenses; he was no guarantor to make them accept his judgement. The cousins prepared to accept his decision, but when the winner began to plough the land, the loser shot one of his men dead and wounded another; the feud continued for many years.

The oath derived its efficiency as a legal instrument from superstitious fear of punishment for perjury. God, as the Almighty, was naturally the chief agent of this punishment. 'Don't let God catch a perjurer', said the aphorism. In invocations the connexion between oath and Deity was simple. The oath-taker called God or one of His saints to witness to the truth of what he was about to swear, and did so in the full knowledge that if he angered Him by perjury, he must expect a manifestation of Divine wrath. There was a very definite belief that God was watching. In oaths sworn on a sacred object or building, such as 'By this good thing of the Lord', there was an indirect invocation of the Deity, but also while the oath-taker swore, he had to keep his hand on the sacred object—Gospel, crucifix, altar, church door, Koran, saint's grave—just as a witness in an English law court must take the oath with his hand on the Bible. This act established physical contact between the oath-taker and the Deity or saint with which the sacred object or building was associated. To a simple tribesman this was a very solemn thought. On this account these contact oaths were preferred above all others. Probably the contact also made the tribesman think punishment more certain. All over the Near East the principle of direct contact with holy things plays an important role. This is most familiar in cases of sickness, as when people knot rags to sacred graves or trees; the holy influences with which they have thus linked their persons penetrate their whole being and cure their maladies. Many instances will be found in the author's book *Christianity and Islam under the Sultans*. But suppliants for such favours must placate the holy influences with prayers or

782 [695] [178]

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687 As Father Gjeçov remarks, perjury harmed the soul, imposed a fine and disgraced the man in the eyes of his fellows. All three consequences worked powerfully in their different ways to keep oath-takers on the path of truth. A thief, for instance, might get [783] as far as the door of a church or mosque, but there his heart would fail him and he would exclaim, 'Forgive me, I did steal it'. Then he would proceed to make the usual reparation. Even innocent men dreaded the oath and took it with great reluctance. In poverty-stricken Theth many were so afraid of it that even when wrongfully accused, they preferred to pay whatever fine was due for the crime. 782 In Lurë people professed to fear nothing so much. 'You may rob [627] me of my life, but I will not break my oath', they used to say. As [423] for oaths taken to settle disputes, generations afterwards the descendants of the original disputants were afraid to break the oath of their ancestors. This fear kept boundaries that had been trodden out by an elder under an oath immovable for all time, and preserved water rights. In modern Lurë there is some maldistribution of irrigation water, but no attempt is made to remedy this by force of law. Many years ago, the people say, their ancestors took an oath about the irrigation rights of each family and they dare not violate this oath. One of the derisory stories told in sophisticated Tirana about the Highlanders relates that they were such poor stuff that one said, when brought to court, 'I have sworn a solemn oath not to tell, but press me a little and I will speak'.

There were occasions, however, on which perjury was thought permissible or even commendable. A man of Lumë, when asked to be compurgator in a murder case, would sometimes consider whether he might help to make peace between the parties if he forswore himself. If he decided that 'giving a living man for a dead one was no way of doing', he would swear a false oath. In the Malësi e Madhe, a village ward or a tribe had sometimes to swear not to enter a malefactor's house; when this punishment came to seem excessive it was thought advisable to break the oath.

695 In general, the modern mountaineers drew a distinction between 687 their own old jury system and the law court that was superseding it. Reluctant though they remained to forswear themselves by their old system, they would do so joyfully in the modern court, especially if this saved a friend or relative or concealed their possession of a rifle; this weapon being their chief treasure, they would deny '500 times' on oath that they had it. Instead of public censure

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they met with public commendation in such cases. The modernity of the court-house was against the oath; there had been no time for the growth of stories about punishment for perjury in it. For the same reason the new church in Nikaj was not thought so good a place for taking an oath as was the old one.

It happened inevitably that some men were sceptical or sacrilegious enough to take a false oath and plausible enough to persuade the requisite number of compurgators to swear to their innocence. A thief could send a stolen cow to graze with his own, yoke the stolen ox into the plough with one of his own and hang a bell on the neck of the stolen sheep or goat. The real owner might recognize the animal, but he could not claim it. The public too might recognize it, but they had to shut their eyes. The law said, 'what is won by an oath belongs to him who wins it'. The law disliked this principle but had to accept it because there was no way of bringing home a crime to a man who had been cleared by an oath. This legal defect made it essential that honourable and knowledgeable compurgators should be chosen. The same defect made every tribal authority, in the interests of justice, foster the general fear of perjury to the utmost.

In spite of the fear of punishment for perjury, some jesting stories, which are possibly apocryphal, were told of perjurers. Once there was a headman in the village of Peladhi, near Zerqan, who wrapped up a block of wood in a cloth as if it were a Koran and summoned the village to swear on it that they would no longer go and cut wood illicitly in each other's forest. They took the oath and, believing they had done so on the Koran, kept it. He too took the oath, but knowing it to be void because taken only on a profane bit of wood went afterwards to his neighbour's forest and cut all the wood he wanted.

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CHAPTER XIX

WITNESS (KËPUCAR)

695 While compurgators empanelled for an ordeal by oath were collecting evidence about the case, neither they nor their informants were on oath, and the verdict depended on whether they judged it right or wrong to swear to the suspect's innocence at the conclusion of their inquiries. Many cases, however, were decided on the evidence of a single informant known as a *këpucar*, who was generally sworn in before being allowed to speak. As he was also severely cross-examined by elders and the verdict depended on the impression made by his evidence, he approximated more closely to the English witness than did the compurgators to the English jury.

An informant was a man who gave information leading to the detection of a criminal, above all when a secret murder or a cunningly concealed theft had taken place. His information had to be based on personal observation.

It was believed that all criminal problems could be solved either by oath or a witness. In some of the most secret crimes, as when a haystack was burned or a dog killed in his own farmyard, there was practically no hope of discovering the criminal save by witness. There were other occasions on which trial by witness was chosen in preference to ordeal by oath. If a witness was known to exist, many elders, particularly in Mirditë, declared forthwith that an oath was superfluous. In Martanesh and Zerqan they often waited to see if a witness would come forward before they ordered the suspect to take an oath. In other cases the accuser was allowed to choose between the two methods. He might do so at the outset of the case, when everything was still vague. In Labinot, for example, as soon as the Village Assembly was notified of the crime, both accuser and suspect being present, the headman habitually asked the accuser which method he was using. Whatever his reply, the suspect himself, in a fury at being under suspicion, gave the accuser the choice of method. Or the choice might be offered when the preparations for the suspect's taking the oath were almost concluded. In Mirditë, for instance, as soon as the compurgators announced that they were ready to clear the suspect, the elders bade

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the accuser come and witness their oath or produce a *këpucar*. An accuser who had good reason to be dissatisfied with the suspect's acquittal was entitled to pursue his inquiries and, securing fresh evidence of the suspect's guilt from an eye-witness, to lay this before the elders with a demand that the case should be reconsidered. Indeed, many elders after delivering a verdict of 'not guilty' reminded the accuser that if he was dissatisfied he was at liberty to find a *këpucar*. He could not, of course, have the suspect put to the oath a second time; 'oath upon oath' was not allowed by the law.

An eye-witness had always to come forward of his own accord; the accuser could not go and look for him directly. In ordinary cases, the accuser let it be known through private channels that he would be glad to find one, but in the cases of arson and murder of a dog already mentioned, the Village Assembly might issue a public appeal for information. No time limit was ever set. Information given a year or more after the crime had been committed was treated as seriously as if it were only a day old.

In every type of case the witness first approached the accuser saying, that he had found the stolen property, the murderer, or the falsity of the oath as the case might be. The accuser then had to go to the suspect and demand restitution. In Mirditë, at least, he had to be accompanied by two friends who were sometimes asked afterwards to confirm that he had warned the suspect. If the latter refused to make atonement, the accuser had to warn him that he had a witness. If the suspect persisted in his refusal, saying, 'Produce your witness', the accuser then, but only then, settled the witness's fee and secured his information. The elders then formed a committee for the purpose of cross-examining the witness. In Zerqan this consisted of five or six men appointed by the suspect and two or three friends of the accuser. In Mirditë it was selected from the *pritëtarë* (sing. *pritëtar*), men fitted to be judges or compurgators by their honour, wisdom and experience in cross-examining witnesses. In the Malësi e Madhe the committee was formed by the bajraktar and one to four headmen; the qualities which such personages were believed to inherit along with their position were thought sufficient equipment for dealing with a witness. Elsewhere one elder was considered enough in simple cases; he was chosen by the suspect at the bidding of the accuser, by the two together, or by the other elders.

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695 With a few exceptions, the greatest precautions were taken to conceal the witness's identity, as the criminal would have killed him if he had discovered who he was. In Mirditë he was allowed to object to the nomination of men whom he thought too indiscreet to preserve his incognito, and those eventually selected had to take an oath that so long as they lived they would not without his permission divulge his identity. He was always interviewed in all secrecy; often the accuser alone knew who he was. He might be taken to an empty house where the elders awaited him, or led at night to the house of an elder who questioned him from a balcony while he stood unseen by all the inmates, the elder included, in the dark farmyard. In the Malësi e Madhe he was often given a rendezvous by night in another village altogether. In Zerqan he usually met the committee in some lonely spot at sunset, with them on one side of a thick hedge and him on the other so that they could not see him. However often he was interviewed, it was always in the same secrecy.

No doubt owing to the danger involved in trying to bring a criminal to justice, a witness was always given a fee. With the delicacy characteristic of Albanians the fee was cloaked under the name of *këpucë* (lit. 'shoe'), presumably in allusion to the shoe-leather which he wore out in finding or conveying his information. Consequently, *këpucar* means literally the 'man who gets shoe-money'.

In the case of theft the witness's fee was not allowed to exceed the value of the stolen property. It was generally determined by agreement between witness and accuser at their first meeting, often after lively bargaining, particularly if the witness was greedy enough to ask more than he should. When the accuser let it be known that he was looking for a witness, he often specified the fee he was willing to pay. When the theft took place in a house, the fee [577] was doubled, because human life had been endangered and the house's honour tarnished; house-breaking always implied that the men in it were weak or the womenfolk light. In Kurbin and Lumë, for example, four napoleons were paid to an informant who found an ox that had been stolen from the farmyard or stable under the house, but only its value, which was always less than four napoleons, in those districts when it had been stolen while grazing outside.

684 A man who disclosed a woman's adultery to her husband
695 received no fee; and a friend was not allowed to take money for

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such a service. In this type of crime there was, of course, no trial in view; the husband's rifle was the only possible arbiter. 695 [684]

The examination which an eye-witness had to pass was very stiff. As a first step, he had to take oath before the elders that he would tell the truth without prejudice or spite; the man he accused was not to be troubled till his accusation was proved to be just. The only extant example of his oath, which comes from Çermenikë, runs, 'Look upon this earth, these mountains, these plains, this sky. You must carry them (through all eternity) if you lie', said the elders. 'Let me carry them. It is as I say,' the witness replied. Sometimes an elder recognized the witness and, knowing him to be of good character, did not ask him to risk his future by taking an oath. Even if he did not recognize him but only liked his manner and general appearance, he might excuse him.

When everything was set for cross-examination, the elders questioned the witness closely, noting any discrepancies in his statements, and looking out for any sign that the accusation was false. If it was a case of perjury, they had to be specially patient and careful as the penalties involved were so much heavier. The witness was not a professional like our detectives. Often he was a man so trusted by the thief that he had constant access to his house and so was in a position to see the stolen goods as soon as produced. [687]

The witness had to give a detailed description of the crime and stolen property to the elders. In most cases of theft he must have either seen the thief in the act of stealing or leaving the scene of the theft or observed the stolen goods in the house or hand of the thief. When an ox had been stolen, he had to say where he saw the animal, where the thief had killed it, sold its hide and so on. When several oxen had been stolen he had to report according to their colouring that one was black, another white and a third dappled, that the thief took first this road, then that, killed one ox at such and such a spot and sold another to so-and-so. Whatever he said was subject to confirmation. When he alleged a sale, the elders sent independent agents to inquire whether it had really taken place. When he said the ox had been eaten, he had to produce concrete evidence, a token such as a bit of the skin, a horn, or some other part. This was the most conclusive of all possible evidence.

If the witness stood up well to the cross-examination, the elders declared that the suspect was guilty and must make the statutory

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695 [687] atonement. If the witness had come forward after the suspect had taken an oath and been acquitted, the elders declared the suspect's oath invalid, pronounced him guilty, and sentenced him, not only to the usual penalties for his crime, but also to punishment for perjury.

[685] Apart from what his perjury, if any, cost him, the convicted thief had to pay the value of the stolen property, the witness's fee and the elders' fee. He had to hand the witness's fee to the owner of the stolen goods, who had to pass it on to the witness, whose anonymity was thus preserved. In order to extract the witness's fee the elders commonly valued the stolen property at a good deal more than its real price; when the thief paid up, the owner retained the real price and handed the surplus to the witness. In Mirditë, says Father Gjeçov, the accuser who failed to warn the suspect at the outset that he had a witness, could not, even if the suspect was convicted, recover more than half the witness's fee. There does not seem to have been a similar law elsewhere.

If a thief continued to deny the theft and refused to pay his various fines after being declared guilty on a witness's evidence, the elders said he must take an oath that he was innocent, and then the compurgators stepped in, forbidding him to perjure himself and so confirming his conviction. This was in Mirditë and Lumë. In Martanesh, the law apparently went further. If a man convicted by a witness of having stolen from a house—the worst type of theft—denied the theft, was ordered to prove his innocence by an oath, and succeeded in doing so, and if the accuser still persisted in his accusation, the latter was asked to produce his witness before a new committee of elders. If a searching cross-examination convinced these that he was telling the truth, they ordered the thief to swear with forty-eight compurgators that he was innocent. This was double the number usual even in murder cases, and far more than he could ever hope to find.

695 687 The cross-examining elders sometimes concluded that the witness was lying. In Dukagjin, when quite certain of this, they made him instead of the thief pay for the stolen property. In the Malësi e Madhe, attended by their followers, they went and burned down his house, killed him if they caught him, and confiscated his property, making it common land on which all were free to graze, although none could plant grapes or sow maize. If some time elapsed before they discovered he had lied and if in the meantime

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they had punished the man he denounced, they repaid any moneys taken from this man out of the false witness's property, selling a portion of it if necessary.

In some southern areas manners were softer. In Çermenikë and Zerqan a lying witness was dismissed with a contemptuous word, suffering only disgrace in the accuser's eyes. Since his identity had never transpired, the public thought neither more nor less of him than before.

Sometimes the witness convicted himself of being the thief. This happened especially when he knew too many details, describing too exactly, for instance, the colour of a stolen animal's hair, the number of its spots, or the shape and twirls of its horns. The elders then called him the thief outright and sentenced him to pay their fee as well as the value of the stolen property and the amount he had extracted from the accuser as his own fee. 'So you wanted to steal twice over from him, did you?' they would exclaim. In Martanesh they also disgraced him publicly. The elder in whose yard he was being secretly examined called out to the accuser to come and seize him like the thief he was; during his cross-examination the accuser had remained, as was everywhere customary, out of earshot. As the yard was bolted for the night, the thief could not escape. Next day he was led out in front of the assembled village, denounced by the elders, and publicly sentenced to pay the sums described above. It often happened that they saw him then for the first time.

In Mirditë, it sometimes happened that a witness, observing that he had failed to convince the elders, and certain of his evidence, came forward publicly, seized the thief (or murderer) by the arm and denounced him as the criminal. Such courage never failed to win credence for his story.

If the witness was dismissed as a liar or convicted as the thief, the accuser lost the money he had paid him as well as the value of his lost property. That explains why a suspect could not be put to the oath a second time, yet could be retried as it were on a witness's evidence. It cost the accuser nothing to make a suspect take an oath, so that if the law had allowed 'oath after oath', a litigiously minded man might have made himself an endless nuisance to suspect, elders, compurgators and general public. But there was no such risk with a witness. The accuser had to prepay him whatever fee they agreed on, and if he had been foolish enough to trust an unsatisfactory person, he lost his money.

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685 formula then applied was 'The beast or an oath'. Each house had
694 to make oath separately that it did not harbour the stolen property. The same routine was followed when the tracks stopped between two villages, the villages as a whole having to take oath.

The tracks of an animal might be destroyed by the thief, or the property stolen might not be an animal at all. In such cases, the owner had to rely on information supplied by third parties, and this was seldom lacking in small communities where there were few secrets. If the whereabouts of the stolen property was discovered, the suspected thief might admit the crime, and if so, the owner and he might settle about repayment themselves, or leave it
685 to the elders to do so. If the suspect denied the theft, the owner
695 informed the village headman of his loss and of the identity of the suspected thief, and the latter called an Assembly to which he summoned owner and suspect. A suspect who did not appear was declared guilty and ordered to pay for the stolen goods. If the suspect came, the owner was given the choice between ordeal by oath and trial on the evidence of an eye-witness, and the proceedings then took the ordinary form.

The convicted thief had first of all to make restitution in accordance with the 'twofold' or 'two-for-one' rule, which exacted twice the value of the stolen goods in kind or money. In Mirditë, when animals were given in restitution, their selection was left to the thief, and, to quote from Father Gjeçov, 'it sufficed if they could walk on their feet'. In Martanesh a committee of two or three was appointed by the thief to make the choice, and this committee had to be accepted by the owner. In addition to restitution, a penalty might be imposed, either in the form of a fine or by ordering an extra number of compurgators if the oath was to be taken. The amount of the fine was largely fixed by tradition though the elders might vary it according to extenuating or aggravating circumstances.

There were various generally recognized kinds of aggravating circumstances. For instance, if a thief lost, spoiled, or ate what he had taken, the penalties were often heavy. In Martanesh and adjoining districts a loser could put any value he liked on a stolen
[683] article that had been destroyed. In Zerqan, it was regarded as a disgrace to the owner of a stolen sheep if it was eaten by the thief on the mountain. Punishment then was not only for the theft, but for the injury to the honour of the victim.

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[Solemn Pledge for Flock + Shepherd in Nikaj + Shalë, St. Prende's Day, 1894]

[681] solemnly pledged to safety for whoever goes to spend the night in Nikaj
[491] or Shalë. If any tribesman of Shalë who goes along this road is killed
[574] by a tribesman of Nikaj, the guest of all Shalë is killed, from dawn of day till the fall of night. If any tribesman of Nikaj who goes along this road is killed by a tribesman of Shalë, the guest of all Nikaj is killed, from the dawn of day till fall of night.

Between the same points the road is safe for Shosh and Mertur and is under the protection of Nikaj and Shalë. If a tribesman of Shosh kills a tribesman of Mertur he kills the guest of Shalë; if a tribesman of Mertur kills a tribesman of Shosh, he kills a guest of Nikaj.

[695] Whoever resorts to violence on this road must make an oath with twelve men taking the oath and twelve standing by.[1]

[233] 2. A flock and its shepherd are not to be killed by anyone; their safety is solemnly pledged and guaranteed. Any man who kills them must pay 20 purses or be killed and have his life equated to theirs.

3. If the pledge of safety is broken and a tribesman of one tribe kills during the period of pledge and guarantee and a tribesman of the other tribe does not so kill, twenty-four men of the tribe that had a man killed must take oath saying, 'You killed me when guaranteed'.

4. The whole road to Curraj up to the Krue i Ftofët (Cold Spring) is under a pledge of safety.

5. Mowers and reapers with scythe and sickle are under a pledge of safety in both summer and winter pasturages.

[313] Cutters of pine slivers and timber are under a perpetual pledge of safety.

[204] Shooters are under a pledge of safety from St Nicholas's Day in summer (May 9th) to St Nicholas's Day in winter (December 6th).

[312] A man irrigating during the night is under a pledge of safety.

6. A house with hearth and flour-bin and the keep of a house are not under a pledge of safety.

[231] Sheepfolds are under a pledge of safety.

7. If anyone goes out from the keep or the house in order to go to the sheepfold which is under a pledge of safety he must say, 'Look, man, we're going to the animals (or the fold), which are under a pledge of safety.'

[562] 8. As for women in Shkodër and Gjakovë:

If any of them wants herself to run away or to behave badly for the fun of it, good luck to her.

[1] (Note by Father Gjeçov: It was the custom in Dukagjin to make half, not all, of the jurors take an oath. If twenty-four jurors are ordered, twelve go and lay their hand on the Gospel and the other twelve stand listening with folded hands. In many mountain districts unless the principal person concerned excuses someone, it is the custom of all the jurors to go and lay their hand on the Gospel while repeating the words of the oath.)

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[Solemn Pledge for Flock + Shepherd in Nikaj + Shalë, St. Prendo's Day, 1894]

If any man meddles with one by force he has meddled with a person under a pledge of safety. [68]

If any man dishonours a woman or ravishes her he has meddled with a person under a pledge of safety.

The Gjklika family is not under a pledge of safety.

Ndue Lika's family is under a pledge of safety for its flock and shepherd.

9. Whoever touches sheep belonging to Nikaj or Shalë must pay 500 grosh or give a Martini rifle, the value of which is 500 grosh. He must also return two animals for every one stolen and pay 500 grosh to the owner of the stolen animals.

10. A detective is to receive 100 grosh for tracking down a sheep and twenty for tracking down a cow or an ox.

11. If a Nikaj or a Shalë man goes to a house to kill someone, he has leave to do whatever the fingers of his hand or the muzzle of his rifle can do. But chisels, wood and any form of iron are not to be used.

Whoever breaks this law, unless he is killed and buried, must pay 20 purses and until he pays them he must look out for his life. If he is killed, the matter must be left at a head for a head.

12. Whoever plays false to this pledge treating it with contempt or ignoring it must give an oath with 24 persons who must say they know nothing, as arranged by the other tribes. If he cannot give such an oath he must pay 20 purses like a man who kills another. [695]

13. A borrower who owes money to someone must go to the head of his ward. If he does not give this head satisfaction, he must go to the Bajraktar. If he does not give the Bajraktar satisfaction he is without protection. He may be robbed and killed until he enters the way of the Bajraktar.

14. The roads from Shalë and Nikaj to Shosh and Mertur are guaranteed by Shalë and Nikaj and if they are cut, 20 purses must be paid. [491]

15. The chapels (*koniqet*) of Nikaj and Shalë in which no candle is lit to St John, St Nicolas and St Bastian (Sebastian), are under a pledge of safety. [718]

16. Complaints in Shkodër and Gjakovë are annulled. [694]

VIII. Pledge for Flocks and Shepherds in Nikaj and Curraj, St John's Day, 1895.

(From Father Gjeçov, *Kanùn*, p. 120.)

1. Any man who kills a shepherd will have his house burned down and his land kept untilled for three years.

2. His neighbours will not have their houses burned down but must pay five purses, 1000 grosh of it for the master of the feud and three purses for the guarantors.

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[681] bajraktar, are perpetual like the law about fire[1] and other laws. Whoever breaks this law must pay an ox to the tribe and 300 grosh and a ram to the government's representative, otherwise he will have his house burned.

The Youth of Shalë
April 30th, 1905

XI. Laws Enacted by the Tribe of Kurbin on August 5–7, 1906.
(From Father Gjeçov, *Kanùn*, p. 129.)

[625] 1. Whoever joins the government police shall have his house burned and be excluded from funeral gatherings and hospitality.

[798] 2. A man who goes to complain to the Turkish government about a Christian shall pay a fine of 1000 grosh.

[675] 3. A man who steals from his neighbour or breaks into his house must, if he denies doing so, give his oath with 12 compurgators. If he proves to be a robber, he must pay a fine of 1000 grosh, and return to the owner of the house two for every article stolen.

4. If an ox is stolen and the accused denies the theft he must give his oath with 6 compurgators. If on enquiry he proves a thief, he must pay a fine of 500 grosh and return to the animal's owner two oxen for the one stolen.

This judgement holds also for a horse and a mule.

If a cow is stolen and the theft denied, the accused's oath needs three compurgators. If he proves a thief the penalty is returning two for one to the owner and a fine of 250 grosh. So too for a donkey.

If a bell-goat or a bell-wether is stolen two for one to the owner and a fine of three rams. If the theft is denied the oath must be given by the accused and all the males in his house.

For every small animal two for one to the owner and a fine of two rams. If the theft is denied the oath is with all the males in the accused's house.

5. Setting fire to a house[2] means a fine of 2500 grosh; to an animals' fold, a haystack and a hedge, a fine of 1500 grosh and returning two for one to the owner.

[623] 6. A man who does not come to a General Assembly when summoned by the village elder will be fined one ram.

[672] 7. If word is sent to the elders to come to a General Assembly anyone who does not come must pay a fine of five rams. If he has an excu e this will be weighed by the other elders.

[1] The Italian version already alluded to (Gjeçov's *Codice di Lek Dukagjini ossia Diritto Consuetudinario delle Montagne d'Albania*, Tradotto dal P. Paolo Dodaj, Roma, 1941) here reads *il mugnaio*, 'the miller' (cf. supra p. 263).

[2] The Italian version reads *La violazione (per furto) del focolare domestico*, and taking fire from a neighbour's hearth without permission is frequently taboo among primitive peoples.

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8. As for jurors, in every crime committed in Kurbin, a murder excepted, the jurors must give their oath, saying, 'That it has been stolen from you, I don't know'.[1] 681 [695]

9. What an informant says is said with an oath of how it was in mind.[2]

10. If a man quarrels deliberately with another and without informing the village elder, he will be fined 500 grosh.

If he informs the village elder and the latter asks for a pledge of good behaviour from the one who is oppressing the other and this man refuses to give it, he will be fined 500 grosh.

If the village elder cannot put things right he gives both men a month's grace and informs the other elders who shall settle the quarrel in accordance with the local law.

11. Anyone who gives food or admittance to his house to a Christian or a Mohammedan who is a policeman in the service of the Sultan shall be fined 1500 grosh. [625] [574]

12. If a man breaks a pledge of security given and taken in the presence of elders and commoners in Kurbin, the elders and commoners are under an obligation to burn his house and to expel him from the tribe. [696]

Written in Delbinisht, Kurbin, at the spring of water under the mulberry tree near the Archbishop's palace on August 5th, 6th and 7th, 1906.

Gjin Pjetër Mark Pervizi of Skuraj, Kurbin, senior elder among the 45 elders of the environs of Krue, in the name of the elders and commoners.

Also present at this General Assembly and registrars of the aforesaid laws:

Mgr. Nikollë Kaçorri, witness.

Father Shtjefën K. Gjeçov, Franciscan, witness.

XII. Letter from Shalë dated May 12th, 1907.

(From Father Gjeçov, *Kanùn*, p. 127.)

1. Greetings from the bajraktar of Shalë, the notables and youth to you, chiefs and youth of Theth. We beg to inform you that the undermentioned laws have been enacted by the tribe of Lower Shalë. We let you know, asking if you too will abide by these laws. We laid down the

[1] The Italian version of clause 8 runs: *Il dorere del giurato per tutto ciò che accada nel territorio di Kurbini, salvo che nelle cause di uccisione, consiste nel giuramento di non cognoscere il colpevole.*

[2] The Italian translator has *La deposizione del delatore deve essere accompagnata dal giuramento.*